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(Resolutions, recommendations and opinions)

RESOLUTIONS

COUNCIL

COUNCIL RESOLUTION

of 3 June 2010

concerning an updated handbook with recommendations for international police cooperation and measures to prevent and control violence and disturbances in connection with football matches with an international dimension, in which at least one Member State is involved

(2010/C 165/01)

THE COUNCIL OF THE EUROPEAN UNION,

Whereas:

- (1) The European Union's objective is, inter alia, to provide citizens with a high level of safety within an area of freedom, security and justice by developing common action among the Member States in the field of police *mutatis mutandis* in connection with other international cooperation as laid down under Title V of the Treaty on the Functioning of the European Union.
- (2) On 21 June 1999 the Council adopted a Resolution concerning a handbook for international police cooperation and measures to prevent and control violence disturbances in connection with international football matches ⁽¹⁾.
- (3) This Resolution was first replaced by the Council Resolution of 6 December 2001 and later on by the Council Resolution of 4 December 2006 concerning a handbook with recommendations for international police cooperation and measures to prevent and control violence and disturbances in connection with football matches with an international dimension, in which at least one Member State is involved ⁽²⁾.
- (4) The current Resolution suggests that amendments to the handbook be proposed in the light of recent experience.
- (5) Taking into account experience in recent years, such as the World Cup 2006 and the European Championships

in 2008 and the experts' assessment of international police cooperation in the framework of those tournaments as well as extensive police cooperation in respect of international and club matches in Europe generally and comparable developments and experiences in respect of other sporting events with an international dimension, the handbook annexed to the aforementioned resolution of 4 December 2006 has been revised and updated.

- (6) The changes included in the annexed updated handbook are without prejudice to existing national provisions, in particular the divisions and responsibilities among the different authorities and services in the Member States concerned, and to the exercise by the Commission of its powers under the Treaty on the Functioning of the European Union,

HEREBY ADOPTS THIS RESOLUTION:

- (1) The Council requests Member States to continue to further enhance police cooperation in respect of football matches (and, where appropriate, other sporting events) with an international dimension.
- (2) To that end, the updated handbook annexed hereto provides examples of strongly recommended working methods that should be made available to the police.
- (3) This Resolution replaces the Council Resolution of 4 December 2006.

⁽¹⁾ OJ C 196, 13.7.1999, p. 1.

⁽²⁾ OJ C 322, 29.12.2006, p. 1-39.

ANNEX

Handbook with recommendations for international police cooperation and measures to prevent and control violence and disturbances in connection with football matches with an international dimension, in which at least one Member State is involvedChapter Contents of the handbook**Introduction - Basic Principles**

1. Information management by the police
2. Event related preparations by the police
3. Cooperation between police forces during the event
4. Cooperation between police and the organiser
5. Co-operation between police and criminal justice and prosecuting agencies
6. Co-operation between police and supporters
7. Communication and media strategy
8. EU Football Expert meeting
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Appendices

1. Dynamic Risk Assessment & Crowd Management
2. Timeframe for requesting Europol products and services
3. Specifications for and sample of Police Identification Vest
4. Categorisation of Football Supporters

INTRODUCTION: BASIC PRINCIPLES

The purpose of this document is to enhance safety and security at football matches with an international dimension, and in particular to maximise the effectiveness of international police cooperation.

The content, where appropriate, can also apply to other sporting events with an international dimension.

The content is without prejudice to existing national provisions, in particular the competencies and responsibilities of the different agencies within each Member State.

Although this document is mainly focused on international police cooperation, in view of the multi-agency character of managing football (and other sporting events), there are references to police interaction with other key partners such as the event organiser.

International police cooperation and football policing operations must be guided by the principles of legality and proportionality. Examples of good practice are detailed at Appendix 1.

Whilst the competent authority in the organising Member State is responsible for providing a safe and secure event, authorities in participating, neighbouring and transit states have a responsibility to assist where appropriate.

This document should be widely disseminated and applied in each Member State and other European countries and beyond in order to minimise safety and security risks and ensure effective international police cooperation.

CHAPTER 1**Information management by the police**

SECTION 1

Certain criteria that could be met with regard to the management of information

I. INTRODUCTION

The timely exchange of accurate information is of the utmost importance in enhancing safety and security and preventing football-related violence and disorder.

In accordance with Council Decision 2002/348/JHA, each Member State must establish a National Football Information Point (NFIP) to act as the central and sole contact point for the exchange of relevant information for football matches with an international dimension, and for developing international police cooperation concerning football matches.

Where there is direct contact between organising and visiting police, any information exchanged shall be shared simultaneously with the relevant NFIPs. Such contact shall not jeopardise the key role of the NFIP in ensuring the quality of the information and wider dissemination to other relevant partners and authorities.

The relationship between the NFIP and the competent national authorities shall be subject to the applicable national laws.

In accordance with Council Decision 2002/348/JHA, each Member State shall ensure:

- The NFIP is able to perform its tasks efficiently and to a satisfactory standard;
- The NFIP shall be equipped with the necessary technical facilities to perform its tasks efficiently and swiftly;
- NFIP personnel are trained and equipped to provide a national source of expertise regarding football policing and associated safety and security matters.

NFIPs shall work on the basis of equivalence.

II. TASKS WITH AN INTERNATIONAL DIMENSION

The NFIP shall support the competent national authorities. On the basis of information that has been analysed and assessed, the necessary proposals or recommendations will be sent to the competent national authorities to assist in developing a multi agency policy on football related issues.

The NFIP shall support local police with regard to national or international football matches.

For the benefit of NFIPs of other countries, each NFIP shall maintain an updated risk-analysis ⁽¹⁾ related to its own clubs and its national team. The risk analysis is generally shared with other NFIPs using the forms available on the NFIP website (www.nfip.eu) ⁽²⁾.

Each NFIP shall have access to the relevant national police databases. The exchange of personal information is subject to the applicable national and international law, especially the Prum Council Decision ⁽³⁾ or bi-national or multi lateral agreements.

The NFIP shall ensure that all information is subject to quality control in respect of content.

⁽¹⁾ Risk analysis means developing a profile on national and club supporters, including risk-groups and how they relate to other supporters at home and abroad including local population groups and the circumstances which can increase potential risk (including interaction with police and stewards).

⁽²⁾ The NFIP website is a highly secure website available for the exclusive use of NFIPs which contains information relating to football matches with an international dimension (e.g. club overview, pre and post match reports).

⁽³⁾ Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 1).

The NFIP can, if appropriate, extend this exchange of information to other agencies which contribute to safety and security.

All information shall be exchanged using the appropriate forms provided on the NFIP website.

III. EXCHANGE OF POLICE INFORMATION

1. Kinds of information

A distinction can be made between general information and personal information. The term 'event' is used to mean a specific football match or tournament in all its aspects.

(a) General information

General information can be divided into three categories:

- strategic information: information that defines the event in all its dimensions, with particular attention to safety and security risks associated with the event;
- operational information: information that assists in making an event related analysis of any potential risks;
- tactical information: information that assists the person in charge at the operational level to respond appropriately to safety and security issues during the event.

(b) Personal information

In this context, personal information refers to information on individuals who are assessed as posing a potential risk to public safety in connection with the event. This may include individuals who have previously caused or contributed to violence or disorder in connection with football matches.

2. Chronological sequence of information exchange

Three phases may be distinguished: before, during and after the event. These three phases need not always be strictly separated.

(a) Task of the NFIP of the organising country

1. Before the event

At the strategic level, information requirements are forwarded to the NFIP of the supporting country/countries. This requirement shall include:

- a risk analysis of supporters of the visiting team
- other relevant information regarding the safety and security of the event e.g. supporter travel details and political or other threats

The NFIP of the organising country shall provide information on the applicable legislation and policy of the authorities (e.g. alcohol policy) the organisation of the event and key safety and security personnel.

All relevant information shall be put at the disposal of the other NFIPs concerned and entered on the NFIP website via the appropriate forms.

At the operational level, the NFIP of the supporting country / countries shall be requested to provide timely and accurate information regarding the movements of risk and non-risk supporters, the participating team (where there is a threat) and ticket sales, together with any other relevant information.

The NFIP of the organising country shall provide information to the NFIP of the supporting country (countries) in particular regarding the integration of the visiting police delegation into the organising country policing operation and information for visiting supporters, etc.

2. During the event

At the operational level, the NFIP of the organising country can request confirmation of the information previously provided and request an updated risk analysis. The request shall be forwarded and answered via a system of liaison officers if such a system has been set up.

At the tactical level, the NFIP of the organising country shall provide feedback on the accuracy of the information provided.

General information regarding the return of supporters including any that have been expelled and/or refused entry shall also be provided to the NFIPs of the country of origin and the relevant transit countries.

3. After the event

The NFIP of the organising country shall (via the appropriate forms on the NFIP website) provide information to the supporting NFIPs:

- regarding the behaviour of supporters so that the risk analysis can be updated by the NFIPs of the country/club they support and/or where they reside;
- concerning the description of any incident. Information regarding arrests or sanctions shall be exchanged in accordance with national and international law;
- on the operational usefulness of the information they have provided and of the support of the visiting police delegation(s) (see Chapter 2).

(b) Tasks of the NFIP of the supporting country / countries

1. Before the event

The NFIP of the supporting country / countries shall respond to the information requirement of the organising country NFIP and, on its own initiative, provide all relevant information to any other NFIPs concerned.

2. During the event

The information supplied shall be updated and the movements and stay of the supporters shall be monitored. Useful information concerning event related incidents in their home country during the matches or tournaments shall also be provided to the organising country and any other relevant NFIP.

3. After the event

Based on the information provided by the organising country NFIP and the visiting police delegation the risk analysis shall be updated (see Chapter 2).

An assessment shall be carried out concerning the information exchange and the work of the visiting police delegation.

SECTION 2

Additional guidance on the tasks of NFIPs

At the national level the NFIP shall coordinate the exchange of information regarding football matches and where appropriate, coordinate and organise the training and work of intelligence officers and / or spotters.

NFIPs shall be the channel for the exchange of information with non-EU countries. If these countries do not have an NFIP they should be asked to indicate a central, single contact point. Contact details should be forwarded to other NFIPs and entered on the NFIP website.

At the national level the NFIP shall act as a knowledge centre. In addition to the police, civil servants and academics could contribute to the role of the NFIP as a knowledge centre.

An NFIP can enter into a formal bilateral agreement with a third party regarding the exchange of certain information in accordance with their own national legislation. This information shall not be further shared without the agreement of the originator.

For tournaments, the NFIP of the organising country shall communicate with the NFIP of the supporting country / countries via the designated national liaison officer where appointed.

On the occasion of a one-off match the NFIP of the organising country shall communicate with the NFIP of the supporting country through the designated liaison officer or Operations Coordinator of the country.

In respect of matters such as counter-terrorism and serious and organised crime the organising country NFIP or the competent police agency shall communicate through any existing network or specialist liaison officers appointed for that purpose.

Europol can, in accordance with its legal mandate, play an important role in supporting the competent authorities of countries organising major international football tournaments, by providing upon request, relevant information and analysis as well as general threat assessments on serious and organized crime and terrorism. In order to facilitate the information exchange, a Europol liaison officer (ELO) may also be stationed on site during the event. ⁽¹⁾

If a local football information centre exists, it shall cooperate with the NFIP. The local information centre and NFIP shall keep one another informed. This information flow should take into account information provided by the visiting police delegation.

CHAPTER 2

Event-related preparations by the police

Visiting Police Delegations

Efficient event preparations by the police in the organising country will be supported by a comprehensive exchange of information, in accordance with the principles which are to be found in chapter 1 of this handbook.

The organising NFIP, following close consultation with their police, should invite a visiting police delegation from countries that can contribute added value. This added value should be considered in the light of a number of factors such as professional experience in managing the behaviour of visiting supporters including risk supporters and the ability to provide the organising police with information designed to minimise risks to public order.

The organising NFIP can also invite police officers who are seeking to gain experience as a member of a visiting police delegation, enabling them to provide added value at football matches involving their supporters in the future.

In accordance with Council Decision 2002/348/JHA, for one-off football matches with an international dimension, the formal invitation for a visiting police delegation shall be transmitted via the NFIP in the organising country, who will receive advice from the police concerned. Taking into account the specific aims of cooperation, the invitation should indicate the composition of the delegation and clarify their roles and responsibilities. It should also specify the intended duration of the visiting police delegation's time in the organising country.

For international tournaments and one-off matches (should either NFIP request) the formal invitation for a visiting police delegation shall come from the Ministry responsible in the organising country, on the advice of the organising country NFIP, and can be subject to an inter-governmental agreement.

⁽¹⁾ See Appendix 2 for details on the timeframe to request Europol products and services.

If a visiting police delegation is not invited by the organising NFIP, the NFIP of the sending country can, if deemed appropriate, submit a proactive proposal to the organising NFIP to send a delegation. If the organising NFIP does not accept the proposal, any police delegation that still travels is acting in an unofficial capacity outside of the scope of this handbook.

The detail of the arrangements (e.g. police powers, equipment, uniforms etc.) concerning the visiting police delegation shall be agreed through negotiation between the respective NFIPs, following consultation with the local police for the one-off match. If a bi-national governmental agreement is not in place, these arrangements shall be in compliance with Article 17 of the Council Decision 2008/616/JHA ⁽¹⁾ and the national laws applicable.

The visiting delegation must not exceed the number agreed by the organising NFIP and must respect the organising police command and control arrangements. If they act in a manner that is not within the terms of the agreement then they are acting outside of the scope of this handbook and the applicable EU Council Decisions and Treaties.

The detailed invitation for support shall be agreed between NFIPs concerned well in advance of a tournament and/or one-off match to allow the visiting police delegation sufficient preparation time. In that context, an invitation for support should be presented as soon as possible after the announcement of the date of the match.

For one-off matches with an international dimension the visiting police delegation will require at least 3 weeks' preparation time. If there is less than 3 weeks prior notice of a match (for example in the later stages of a European club competition or due to an increased level of risk) the invitation shall be sent immediately. For international tournaments, the visiting police delegation requires at least 16 weeks' preparation time.

Financial Arrangements

On each occasion the organising country shall pay for accommodation, meals (or subsistence) and other facilities made available locally whilst the visiting country shall pay for travel and salaries of the delegation members involved. Exceptionally, the respective NFIPs can agree on alternative arrangements. These arrangements need to be clarified in the Protocol for deployment of visiting police delegations, as available on the NFIP-website.

Organising Police Responsibilities

The police in the organising country shall provide an opportunity for key members of the visiting police delegation to acquaint themselves with the organisation of police operations in the organising country and/or the venue town(s) and with the stadium location, and to get to know the operational commander(s) at the venue town(s) on the match day(s).

- for international tournaments, this should take place at least one month prior to the tournament (e.g. by hosting workshops or seminars for key members of visiting police delegations).
- for one off matches with an international dimension this will be on one of the days prior to the match.

Accompanying Visiting Police Delegations

Ensuring the safety of all members of a visiting police delegation is paramount and shall be reflected in all organising and visiting police risk assessments concerning police deployment.

Visiting members of a police delegation, in particular the Liaison Officer, Operations Co-ordinator and operational police officers (see below) should work alongside local police officers (commonly known as cicerones) who themselves should be serving police officers, preferably with experience of policing football in their own city or country, including familiarity with the venue area and potential risk areas.

Cicerones:

- must be integrated into the national / local policing operation and have the ability to relay information enabling operational police commanders to make key decisions;
- must have knowledge of their police organisation, processes and command structure;

⁽¹⁾ Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 12).

- shall not be tasked with monitoring their own risk supporters whilst they are deployed accompanying members of a visiting police delegation;
- should be thoroughly briefed on the organising policing operation, their responsibilities, and on the tasks expected of the members of the visiting police delegation;
- will be responsible for the safety of visiting police delegation and provide a channel of communication with the organising police;
- should be deployed with the visiting police delegation for the duration of the operation; this will assist in developing an effective working relationship;
- shall work with the visiting police delegation in a common language agreed beforehand.

Composition and Tasks of the Visiting Police Delegation

The composition of the visiting police delegation shall enable them to support the organising country policing operation for example by:

1. Undertaking and communicating to the organising police an ongoing dynamic risk assessment (see Appendix 1);
2. Communicating and interacting with visiting supporters;
3. If allowed in the national legislation of the organising country and subject to the agreement of the organising country intelligence and evidence gathering on behalf of the organising police or for their own purposes.

Depending on the exact nature of the support to be provided the composition of the delegation could be as follows:

1. a **Head of Delegation** who is functionally and hierarchically in charge of the visiting police delegation;
2. a **Liaison Officer** (or more if agreed by the respective NFIPs) who is responsible in particular for the exchange of information between his / her home country and the organising country;
3. an **Operations Coordinator** who is responsible for coordinating the work of the visiting police officers;
4. **operational police officers** (in plain clothes or uniform) with spotting, supporter liaison, escorting and other duties;
5. a **spokesperson / press officer**. The Head of the visiting police delegation can, if considered appropriate, act as a spokesperson and / or have his/her own press officer.

Key Tasks:

Liaison Officer and /or Operations Co-ordinator

The assignment of a Liaison Officer and /or an Operations Co-ordinator should enable an effective exchange of information between the visiting and organising country authorities in connection with a one off football match or a tournament.

It is possible for both roles to be performed by the same officer. Whether this is appropriate is a decision for the organising and visiting police to agree on a case by case basis prior to deployment in the organising country.

The Liaison Officer/Operations Co-ordinator must, as a minimum requirement, have:

- a good working knowledge of this handbook;

- an understanding of the processes required to facilitate the international exchange of information;
- the ability to represent their country and their role effectively when liaising with the organising police services (i.e. be diplomatic, self-confident, independent and able to communicate in a common language agreed beforehand);
- a background knowledge of the situation concerning football related violence / disorder in their country.

The main tasks of a Liaison Officer/Operations Co-ordinator can be summarised as:

- gathering and transferring information / intelligence between their delegation and the organising / local police;
- ensuring effective deployment of their operational police officers (in uniform and / or plain clothes) in order to play an integral role in the organising police operation for the event;
- providing timely and accurate advice to the organising / local police commander.

During international tournaments the Liaison Officer is likely to be based in a single or bi-national Police Information Co-ordination Centre (PICC) whilst the Operations Co-ordinator may be based in a local information centre in the area where the match will be played. For one off matches they may be based in the organising country NFIP or other appropriate environment.

For a one off match the Liaison Officer/Operations Co-ordinator shall work closely with the police of the organising city.

In order to perform their functions effectively the organising police shall provide the Liaison Officers/Operations Co-ordinators with access to the relevant technical equipment.

Operational Police Officers

A well balanced deployment of visiting operational police officers, whether in uniform or plain clothes (commonly referred to as spotters), can:

- be used by the organising police as a means of interacting with visiting supporters in order to assist crowd management;
- assist in reducing the anonymity of risk supporters in a crowd, and their ability to instigate and / or participate in acts of violence or disorder without further consequences;

The officers should have experience in the policing of football matches in their own country.

They:

- will have the skills and experience to communicate effectively (where appropriate) in order to influence the behaviour of supporters; and / or
- are specialists in the behaviour of, and the potential risks posed by their supporters; and
- are able to communicate effectively during the event to organising country police commanders, via their Liaison Officer /Operations Co-ordinator, information about the type of risk they might pose at any given time and place.

Members of visiting police delegations should be able to communicate positive, as well as negative issues concerning their team / national supporters. This will allow the organising country police commanders to make balanced decisions around the need to intervene or facilitate legitimate supporter behaviour.

It is important to emphasise here that the primary role of visiting operational police officers is advisory and not operational or decision making.

Subject to the agreement of the organising country, visiting operational police officers can also be deployed to gather intelligence / evidence through the use of agreed equipment for use by the organising police or for prosecution purposes in their own country.

CHAPTER 3

Cooperation between police forces during the event

Maximum use should be made of the support and added value that a visiting police delegation can provide to organising police operations.

The visiting police delegation should be informed about the organising police organisation's operational plan (including their crowd management philosophy and behavioural tolerance levels). They shall be fully integrated into the organising police operation (and given the possibility to attend and participate in pre-match briefing and post-match debriefing meetings).

As regards the use of languages, arrangements shall be made in advance by the countries concerned.

The organising police and the visiting police delegation shall keep their respective NFIPs informed of developments throughout the operation and submit to their NFIP a post-match report within 7 days.

The members of the visiting police delegation shall be shielded from the media unless specific arrangements have been agreed with the head of the delegation.

The visiting police delegation should always ensure that their actions do not unnecessarily jeopardise the safety of other persons ⁽¹⁾.

In case of emergency (i.e. when there is an immediate threat for his/her physical safety) or when it is jointly agreed for tactical reasons, visiting police officer(s) who are not deployed in uniform shall use the standard luminous and distinctive visiting police identification vests, as described in Appendix 3. Each visiting police officer shall bring this vest when he/she travels abroad.

The police force of the organising country, in consultation with the football organisers, shall ensure that the visiting police delegation has, when appropriate, stadium access and accreditation (seating is not required) to enable the delegation to carry out their tasks effectively. Stewards and other safety and security personnel should be made aware of this at their briefing(s) prior to the game.

Countries which have the legal possibility to prevent risk supporters from travelling abroad should take all the necessary measures to achieve this objective effectively and should inform the organising country accordingly. Each country should take all possible measures to prevent its own citizens from participating in and/or organising public order disturbances in another country.

The police of the organising country should seek to have available interpreters for the languages spoken by supporters from visiting countries. This could save visiting police delegations from having to undertake this task, which would keep them from actual operational tasks. These interpreters could also facilitate communication between the organising country's police and the visiting police delegation.

CHAPTER 4

Cooperation between police and the organiser

SECTION 1

Role of the organiser

The organisers of football matches with an international dimension should do everything in their powers to ensure safety and effective crowd management at the stadium, before, during and after the match, so that the police can be deployed as efficiently as possible.

⁽¹⁾ See Articles 21 & 22 of the Prüm Council Decision on civil and criminal liability.

A coordinated approach between all the parties involved is a prerequisite of an efficient strategy for the organisation of football matches with an international dimension. Close cooperation between the organiser, the private partners involved, the public authorities and the police is therefore strongly recommended.

In order to minimise safety and security risks the authorities and/or the police should impose on the organiser minimum requirements which they have to meet in order to organise football matches with an international dimension. To this end the Council of Europe checklist can be used (see Chapter 9).

SECTION 2

Cooperation between police and the organiser

The organiser should appoint an individual as being responsible for safety within the stadium (commonly referred to as the Safety Officer). It is important that the police liaise closely with this individual.

The police and the organisation responsible for safety within the stadium should work together on a complementary basis, without prejudice to each side's own responsibilities, competencies and tasks, which are determined by national law and/or laid down or specified in a written agreement between the organiser and the police.

Unless determined by national law, this agreement should indicate what tasks shall be undertaken by the organiser and what tasks by the police, focusing on particular on the respective roles of the safety officer and police ground commander, and those of the safety personnel and of police officers.

Unless determined by national law, the agreement should also specifically identify:

- who should undertake pre entry cordons and searching;
- who should be in charge of measures to monitor and manage crowd movement and take decisions to open or close gates or turnstiles;
- what assistance police officers will provide to safety personnel and/or vice versa in preventing trouble or dealing with troublemakers;
- who shall decide that the start of the match shall be delayed and in what circumstances (normally the organiser on safety grounds, the police in case of actual or potential public disorder);
- who shall decide and in what circumstances that a match shall be abandoned and who shall be responsible for liaison with the referee;
- the circumstances in which the police shall take control of all or part of the stadium, the procedure for doing so and for the eventual return of control to the organiser;
- who shall direct and supervise evacuation of the stadium and in what circumstances;
- who shall inform the emergency services of any incident requiring or likely to require their presence;
- who shall activate the organiser's emergency procedures.

CHAPTER 5

Co-operation between police and justice and prosecuting agencies

The contents of this chapter should be seen in the context of wide variations in the structure and competencies of justice and prosecuting agencies in Member States.

There can be significant benefits from close cooperation between police and justice and prosecuting agencies both in respect of one-off matches and tournaments.

Whilst the organising country has sovereignty and jurisdiction to deal with all alleged event related offences, the police and other authorities in Member States and EU competent bodies (e.g. Eurojust) also have a responsibility to assist and support the justice and prosecuting agencies in the organising country.

All Member States should ensure that it is possible to deal quickly and appropriately with event-related offences.

The organising police and other authorities should inform visiting police and supporters of relevant domestic legislation and / or criminal, civil or administrative procedures together with the maximum penalties for the most common football related offences.

Existing multi-lateral agreements on mutual legal assistance (MLA) should be fully utilised for all football matches with an international dimension where appropriate and additionally an organising country may agree bilateral arrangements with any other country for enhanced MLA before, during and after the event.

The NFIP of the supporting country / countries should inform the organising NFIP:

- of any legal possibilities (e.g. football banning orders / exit bans) they have to prevent risk supporters attending the event;
- what possibilities can be offered, in accordance with national or international law, to the visiting police delegation and / or other competent agency (e.g. visiting liaison prosecutors) within the framework of the bilateral agreement between the countries involved to gather evidence of any football-related offences committed by visiting supporters;
- what offences committed in the organising country could be prosecuted in the supporting country (upon the return of the offender).

The organising country may invite any other countries to send a liaison prosecutor/judge or other body with prosecutor power to be present during the event.

It is recommended that the relevant organising authority, in accordance with the national law including data protection, provides the visiting police delegation and/ or competent agency (e.g. visiting liaison prosecutors) with information from judicial or court records and police or investigative reports, including arrest records, of their nationals.

Alternately, a supporting country may agree to have a liaison prosecutor/judge or other body with prosecutor power available on call to travel to the organising country at its request, or appoint a designated liaison prosecutor / judge or other body with prosecutor power for liaison with the organising authority.

Within the scope of national legislation the supporting NFIP(s) will attempt to answer promptly requests for further information on arrested individuals, such as details of previous convictions, including football-related offences.

All costs related to liaison prosecutors/judges or other body with prosecutor power being sent to the organising country should be subject to bi-lateral agreement.

The organising country will provide the necessary means of communication and other facilities for the visiting liaison prosecutors/judges or other body with prosecutor power.

CHAPTER 6

Co-operation between police and supporters

Police liaison with supporter groups at national and local level can have a significant impact in minimising safety and security risks at football matches with an international dimension. This co-operation can however be undermined if there is a perception that supporter representatives are working on behalf of the police and for example sharing personal data.

Organising police and other authorities should take account of the potential benefits associated with supporter led / supporter related initiatives such as Fan Embassies, Fan Projects and Fan Liaison Officers / Representatives.

Visiting police delegations and supporter representatives can help ensure that organising police are aware of the character and culture of the visiting supporters. This should be taken into account as part of the organising police dynamic risk assessment process.

Ongoing co-operation and communication between police and supporter groups can help provide a basis for a safe, secure and welcoming atmosphere for all supporters, and can provide a channel for relaying important information such as travel advice, access routes to the stadium, applicable legislation and behavioral tolerance levels. This could also include the provision of an easily accessible contact and information point where supporters could address their questions.

Pursuing this approach has been shown to contribute towards promoting self-policing amongst supporters and facilitating early and appropriate intervention in respect of emerging security problems or risks.

CHAPTER 7

Communication and Media Strategy

Communication Strategy

An effective and transparent communications strategy is integral to a successful safety and security concept for football matches, tournaments and other sporting events with an international dimension.

Organising country policing agencies should, therefore, work closely with governmental and local agencies, football authorities/organiser, the media and supporter groups in the preparation and delivery of a comprehensive multi-agency communications strategy.

An effective multi-agency media strategy is a crucial aspect of any communication strategy in terms of providing all parties, notably visiting supporters, with important information such as travel advice, access routes to the stadium, applicable legislation and behavioral tolerance levels.

The central aim should be to support a positive image of the event among home and visiting supporters, local communities, the general public and individuals participating in the safety and security operations. This can help generate a welcoming environment for all involved and play a major contributory role in minimising safety and security risks.

Media Strategy

The police (and wider multi-agency) media strategy should at least aim to:

- provide information in a proactive, open and transparent manner;
- provide information on safety and security preparations in a reassuring and positive manner;
- communicate the police intention to facilitate the legitimate intentions of supporters;
- make clear what kinds of behaviour will not be tolerated by the police;

The police should work closely with governmental and local agencies, football authorities /organisers and, where appropriate, supporter groups in establishing and delivering a multi-agency media strategy which:

- proactively promotes positive images of the event;
- ensures clarity of responsibility among police and partner agencies in terms of who has the lead in communicating with the media on the various aspects of safety and security (and beyond);
- provides common background and briefing information for all police and partner agency spokespersons (briefing material should be regularly updated to take account of recurring themes or questions and emerging risks or events);
- ensures that factual information is released to the media and / or on the internet on a regular basis in the build up, during and after the event;

- provides opportunity for press/media briefings on a regular basis;
- takes account of the needs/interests of different categories of journalists/media.

CHAPTER 8

EU Football Expert meeting

It is highly recommended that each Presidency holds an expert meeting concerning:

- the recommendations mentioned in Chapters 1 to 7;
- new trends/developments in supporter behaviour;
- international links between supporter groups;
- sharing of good policing practice;
- any other issues of interest.

The EU Football Expert meeting can commission subgroups of experts to consider emerging issues in the field of security in connection with football matches and make recommendations.

The Presidency shall report to the Council on the result of the meeting. This report replaces the annual questionnaire on football hooliganism required by document 8356/01 ENFOPOL 40.

CHAPTER 9

List of relevant documents on safety and security at football matches

SECTION 1

List of documents previously adopted by the EU Council

1. Council Recommendation of 30 November 1993 concerning the responsibility of organisers of sporting events.
2. Council Recommendation of 1 December 1994 concerning direct, informal exchanges of information with the CCEEs in the area of international sporting events (network of contact persons).
3. Council Recommendation of 1 December 1994 concerning exchange of information on the occasion of major events and meetings (network of contact persons).
4. Council Recommendation of 22 April 1996 on guidelines for preventing and restraining disorder connected with football matches, with an annexed standard format for the exchange of police intelligence on football hooligans (OJ C 131, 3.5.1996, p. 1).
5. Joint action of 26 May 1997 with regard to cooperation on law and order and security (OJ L 147, 5.6.1997, p. 1).
6. Council Resolution of 9 June 1997 on preventing and restraining football hooliganism through the exchange of experience, exclusion from stadiums and media policy (OJ C 193, 24.6.1997, p. 1).
7. Council Resolution of 21 June 1999 concerning a handbook for international police cooperation and measures to prevent and control violence and disturbances in connection with international football matches (OJ C 196, 13.7.1999, p. 1).
8. Council Resolution of 6 December 2001 concerning a handbook with recommendations for international police cooperation and measures to prevent and control violence and disturbances in connection with football matches with an international dimension, in which at least one Member State is involved (OJ C 22, 24.1.2002, p. 1).

9. Council Decision of 25 April 2002 concerning security in connection with football matches with an international dimension (OJ L 121, 8.5.2002, p. 1).
10. Council Resolution of 17 November 2003 on the use by Member States of bans on access to venues of football matches with an international dimension (OJ C 281, 22.11.2003, p. 1).
11. Council Resolution of 4 December 2006 concerning a handbook with recommendations for international police cooperation and measures to prevent and control violence and disturbances in connection with football matches with an international dimension, in which at least one Member State is involved (OJ C 322, 29.12.2006, p. 1-39).
12. Council Decision of 12 June 2007 amending Decision 2002/348/JHA concerning security in connection with football matches with an international dimension (OJ L 155, 15.6.2007, p. 76 - 77).

SECTION 2

List of documents previously adopted by the Standing Committee of the European Convention on Spectator Violence and Misbehaviour at Sports Events and in particular at Football Matches (Council of Europe)

1. European Convention on spectator violence and misbehaviour at sport events and in particular at football matches.
2. Recommendation Rec (1999) 1 on Stewarding.
3. Recommendation Rec (1999) 2 on the removal of fences in stadiums.
4. Recommendation Rec (2001) 6 of the Committee of Ministers to member states on the prevention of racism, xenophobia and racial intolerance in sport.
5. Recommendation Rec (1989) 1 on guidelines for ticket sales and
6. Recommendation Rec (2002) 1 on guidelines for ticket sales at international football matches.
7. Recommendation Rec (2003) 1 on the role of social and educational measures in the prevention of violence in sport and handbook on the prevention of violence in sport.
8. Recommendation Rec (2008) 1 on the checklist of measures to be taken by the organisers of professional sporting events and by the public authorities.
9. Recommendation Rec (2008) 2 on the use of visiting stewards.
10. Recommendation Rec (2008) 3 on the use of pyrotechnical devices at sport events.
11. Recommendation Rec (2009) 1 on the use of public viewing areas at large scale sport events.
12. Recommendation on hospitality principles when organising sports events (not finished yet).

*Appendix 1***Dynamic Risk Assessment & Crowd Management**

Taking into account:

- document 8241/05 ENFOPOL 40 concerning dynamic risk assessment in the context of international football matches;
- document 8243/05 ENFOPOL 41 concerning police tactical performance for public order management in connection with international football matches;
- the experience and lessons of Euro 2004 and subsequent tournaments;
- evaluation of the policing philosophy, commonly known as the 3D approach (dialogue, de-escalation and determination) during Euro 2008;

the following considerations should be applied to the assessment of risk to safety and security before, during and after the event.

Key Principles

Current understanding of effective crowd management highlights the importance of:

- maintaining perceptions of appropriate policing among crowd participants;
- avoiding the use of force against crowds as a whole when only a minority are posing a risk to public order;
- a 'low profile' or 'graded' tactical approach to policing that enhances police capability for communication, dialogue and dynamic risk assessment.

Facilitation

- the strategic approach should be preventative through low-impact intervention rather than repressive;
- it is important that at every stage of an operation police strategy and tactics should take account of and facilitate the legitimate intentions of supporters, as far as these are peaceful (e.g. to celebrate their identity and culture, travel to and from the fixture in safety);
- if it is necessary to impose limits on supporter behaviour, it is important to communicate with those supporters why police action has been taken and what alternative means the police are putting in place through which legitimate aims can be achieved.

Balance

- during any crowd event the levels of risk to public order can change rapidly;
- it is important that there is a proportionate balance between the style of police deployment and the level, sources and nature of risk at the point of police crowd interaction;
- it is important that the policing is graded and capable of changing directly in response to the nature and levels of emerging and decreasing risk;
- where balance is achieved the majority in the crowd are more likely to perceive the actions of the police as appropriate and less likely to support and associate with those seeking confrontation;
- therefore, to help decrease the likelihood and scale of incidents, it is critical that risk assessments are accurate and inform police tactics at all times.

Differentiation

- the indiscriminate use of force can contribute to a widespread escalation in the levels of public disorder through its interaction with crowd dynamics;
- differentiation between individual supporters actually posing a danger and those that do not is therefore a consideration that must be built into every strategic and tactical decision relating to the management of crowds (i.e. training, planning, briefing and operational practice);

- it is inappropriate to act against a whole crowd who happen to be present in a given location, unless there is evidence that they are uniformly seeking to provoke disorder.

Dialogue

- it is important to communicate proactively with supporters. This is best achieved by police officers with good communication skills;
- the focus is to create a welcoming atmosphere and avoid the potential for conflict;
- this approach can assist in the gathering of high quality information regarding supporter intentions, perspectives, concerns and sensitivities and any other information regarding potential risk;
- it also allows the police to communicate concerns regarding supporter behaviour, risks they may face and solutions to any emerging difficulties.

Models of good practice

Before the event

Risk assessment should take into account:

- the underlying culture of the supporter group to be policed (e.g. characteristic behaviour, motivations and intentions);
- any factors likely to impact on risk e.g. the activities of other groups (such as opposition supporters and / or local communities), sensitivities, history, and anything else that has particular significance (dates, places, forms of action, symbols);
- any circumstances likely to impact on the behaviour of, or risk posed by, those supporters or groups perceived to pose a risk to public order.

Behavioural tolerance levels should be defined and priority given to communicating these to supporter organisations. Consideration should be given to encouraging supporters to gather in a safe/controlled environment (e.g. a fan zone).

Based upon this information and intelligence relating to the specific fixture it should be possible to predict and distinguish fixtures with normal risk and increased risk to public order.

It is important to clearly distinguish between risks for specific types of incidents, such as public order, public safety, criminality in relation to mass events and terrorism.

Initial contact

Since the level of risk to public order is not fixed but highly dynamic it can increase and decrease rapidly in response to circumstances. The levels of risk must therefore be monitored and accurately assessed on an ongoing basis.

To achieve this:

- police should engage in high levels of positive interpersonal interaction with supporters (non-aggressive posture, smiling, deployed in pairs or in small groups in standard uniform, dispersed widely across and within crowds, accommodating requests for photographs, etc);
- where language is not a barrier, officers should try to communicate with supporters to gather information about their demeanour, intentions, concerns, sensitivities and any other issues relevant to their behaviour;
- interventions units (i.e. 'riot squads' with protective equipment, vehicles, etc) should be kept in discreet locations unless the situation determines that a more forceful intervention is required.

This will assist the organising police gather information and inform command decisions regarding tactical deployment on the basis of continuous and ongoing risk assessment.

Increasing risk

Where circumstances posing risk are identified it is important to:

- communicate to those posing the risk that they are provoking the potential for police intervention;

— where an incident involves visiting supporters organising police assessments should be validated by the visiting police delegation.

Should the above measures not resolve the situation, then further police use of force may be required. The objective of police deployment at this stage is to minimise further risk and it is therefore essential that any action does not escalate tensions (e.g. indiscriminate use of force). Where any potential for an increase in risk is identified:

— it is vital that information about the persons creating the risk and its nature is communicated clearly to the intervention squads being deployed so that any use of force can be appropriately targeted;

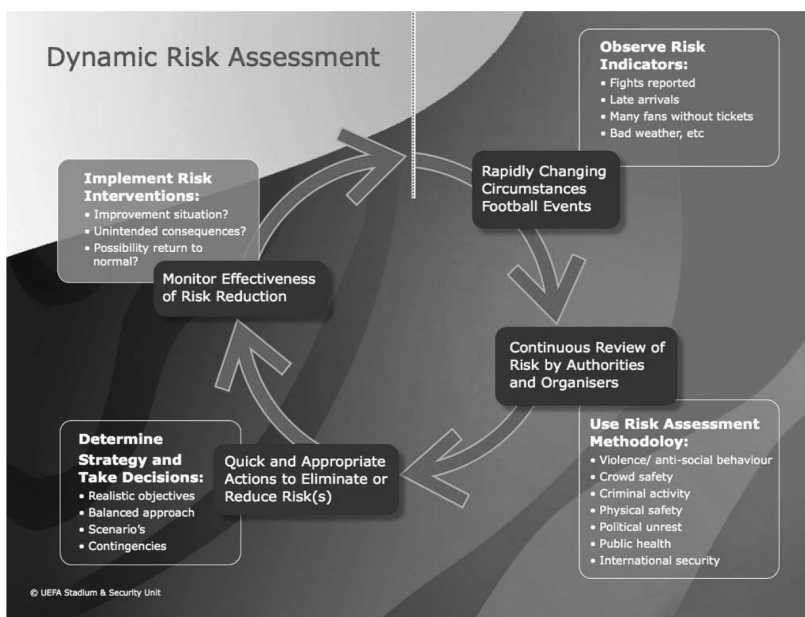
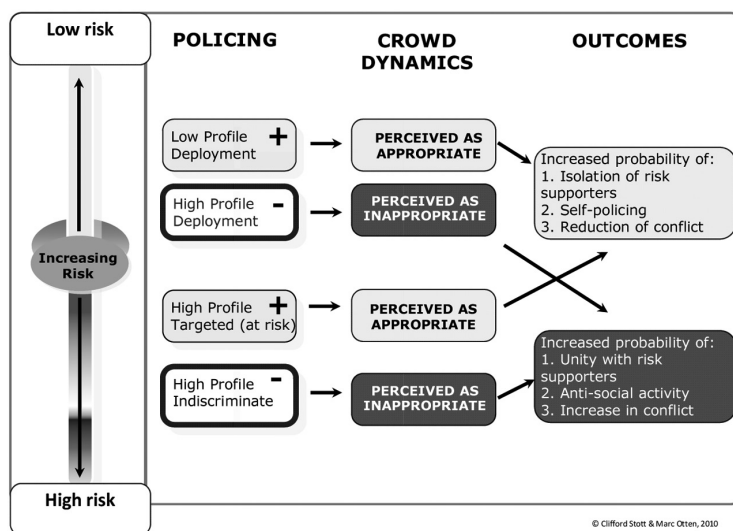
— those not posing any risk should be allowed to leave the vicinity and / or some time to impose 'self-policing'.

De-escalation

— once the incident(s) has been resolved policing levels should return to an appropriate level.

After the event

— a through debrief should be conducted and any relevant information (e.g. the quality of information received before and during the event, the behaviour and management of supporters, police tactics and the enforcement of tolerance levels) must be recorded with the NFIP.



Appendix 2

Timeframe for requesting Europol products and services ⁽¹⁾

	Official request to Europol
Initial General Threat Assessment on Organised Crime Related to the Event (GTA)	D ⁽¹⁾ -12 months
Initial General Terrorism Threat Assessment Related to the Event (GTTA)	D-12 months
Updates to the GTA and or GTTA	D-6 months
Specific (crime area) Threat Assessment(s)	D-6 months
Operational Analytical Support within the framework of the existing Europol Analysis Work Files	D-4 months
Training Course in Strategic Analysis	D-8 months
Training Course in Operational Analysis	D-8 months
Specialist (specific crime area) Training Courses	D-6 months
Europol Liaison Officer on site	D-12 months

⁽¹⁾ The starting date of the event.

⁽¹⁾ Europol Support to Member States – Major International Sporting Events (Europol file number 2570-50r1).

Appendix 3

Specifications for and sample of police identification vests

This is a slip on (over the head) non sleeve vest

Colour: NATO BLUE:

Colour code: Pantone 279C

Identification Markers

Single word: POLICE (in English only) with a box border - to be positioned in the centre of the vest both front & back.

POLICE letters and border: Nato Blue background.

Both letters and the surrounding box to be luminous silver.

Box measurements = 25 cm × 9 cm

POLICE letters: Width = 1,3 cm per letter
Height = 7,5 cm

Vest Front:

Left Breast (above POLICE box): National Flag 10 cm × 7 cm - embroidered/sewn on or in a plastic sleeve.

Right Breast (above POLICE box): EU Symbol 8 cm × 8 cm

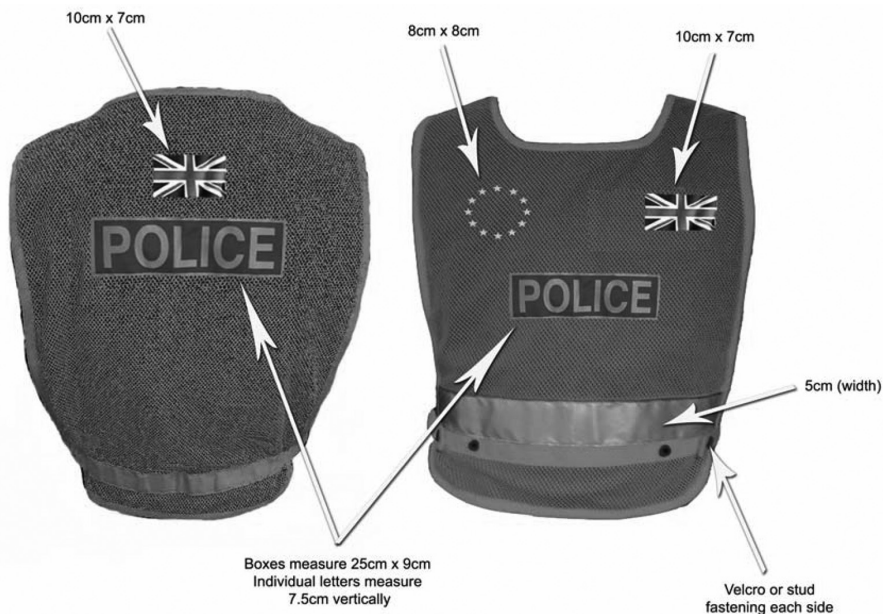
Below the POLICE box should be a luminous silver band across the front of the vest × 5 cm wide.

Vest Rear:

National Flag above POLICE box: 10 cm × 7 cm.

Below the POLICE box should be a luminous silver band across the rear of the vest × 5 cm wide.

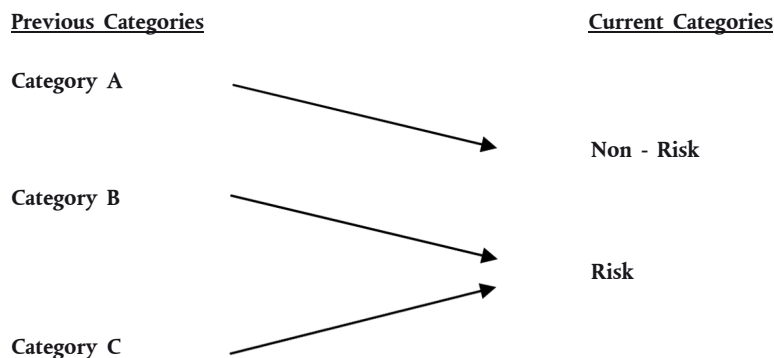
Vests should be able to be secured by means of either Velcro or popper type fasteners on both sides



Colour code: NATO blue
Pantone: 279C

Appendix 4

Categorisation of football supporters

**Definition for a 'Risk' Supporter**

A person, known or not, who can be regarded as posing a possible risk to public order or anti social behaviour, whether planned or spontaneous, at or in connection with a football event (see dynamic risk assessment below)

Definition for a 'Non-Risk' Supporter

A person, known or not, who can be regarded as posing no risk to the cause of or contribution to violence or disorder, whether planned or spontaneous, at or in connection with a football event

RISK SUPPORTER CHECKLIST

Elements	Supporting Comments
PUBLIC ORDER	
Historical rivalry between club	
Expected violence	
Racist behaviour	
Away supporters likely in home sector	
Pitch invasion	
Alcohol related problems	
Use of weapons	
Knowledge of police tactics	
Other	
PUBLIC SAFETY	
Terrorist threat	
Political tension/use of banners	
Use of flares/fireworks likely	
Travelling supporters without tickets	
Black market tickets	
Other	
CRIMINAL ACTIVITY	
Counterfeit tickets	
Sale/use of illegal drugs	
Other	

III

(Preparatory acts)

MEMBER STATES' INITIATIVES

Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the Republic of Austria, the Republic of Slovenia and the Kingdom of Sweden for a Directive of the European Parliament and of the Council of ... regarding the European Investigation Order in criminal matters

(2010/C 165/02)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 82 (1)(a) thereof,

Having regard to the initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the Republic of Austria, the Republic of Slovenia and the Kingdom of Sweden,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The European Union has set itself the objective of maintaining and developing an area of freedom, security and justice.

(2) According to Article 82(1) of the Treaty on the Functioning of the European Union, judicial cooperation in criminal matters in the Union is to be based on the principle of mutual recognition of judgments and judicial decisions, which is, since the Tampere European Council of 15 and 16 October 1999, commonly referred to as a cornerstone of judicial cooperation in criminal matters within the Union.

(3) Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property and evidence⁽¹⁾, addressed the need for immediate mutual recognition of orders to prevent the destruction, transformation, moving, transfer or disposal of evidence. However, since that instrument is restricted to the freezing phase, a freezing order needs to be accompanied by a separate request for the transfer of the evidence to the issuing state in accordance with the rules applicable to mutual assistance in criminal matters. This results in a two-step procedure detrimental to its efficiency. Moreover, this regime coexists with the traditional instruments of cooperation and is therefore seldom used in practice by the competent authorities.

(4) Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters⁽²⁾ was adopted to apply the principle of mutual recognition in such respect. However, the European evidence warrant is only applicable to evidence which already exists and covers therefore a limited spectrum of judicial cooperation in criminal matters with respect to evidence. Because of its limited scope, competent authorities are free to use the new regime or to use mutual legal assistance procedures which remain in any case applicable to evidence falling outside of the scope of the European evidence warrant.

(5) Since the adoption of Framework Decisions 2003/577/JHA and 2008/978/JHA, it has become clear that the existing framework for the gathering of evidence is too fragmented and complicated. A new approach is therefore necessary.

⁽¹⁾ OJ L 196, 2.8.2003, p. 45.

⁽²⁾ OJ L 350, 30.12.2008, p. 72.

- (6) In the Stockholm programme, which was adopted on 11 December 2009, the European Council decided that the setting up of a comprehensive system for obtaining evidence in cases with a cross-border dimension, based on the principle of mutual recognition, should be further pursued. The European Council indicated that the existing instruments in this area constitute a fragmentary regime and that a new approach is needed, based on the principle of mutual recognition, but also taking into account the flexibility of the traditional system of mutual legal assistance. The European Council therefore called for a comprehensive system to replace all the existing instruments in this area, including the Framework Decision on the European evidence warrant, covering as far as possible all types of evidence and containing deadlines for enforcement and limiting as far as possible the grounds for refusal.
- (7) This new approach is based on a single instrument called the European Investigation Order (EIO). An EIO is to be issued for the purpose of having one or several specific investigative measure(s) carried out in the executing State with a view to gathering evidence. This includes the obtaining of evidence that is already in the possession of the executing authority.
- (8) The EIO has a horizontal scope and therefore applies to almost all investigative measures. However, some measures require specific rules which are better dealt with separately, such as the setting up of a joint investigation team and the gathering of evidence within such a team as well as some specific forms of interception of telecommunications, for example, interception with immediate transmission and interception of satellite telecommunications. Existing instruments should continue to apply to these types of measures.
- (9) This Directive does not apply to cross-border observations as referred to in Article 40 of the Convention of 19 June 1990 implementing the Schengen Agreement ⁽¹⁾.
- (10) The EIO should focus on the investigative measure which has to be carried out. The issuing authority is best placed to decide, on the basis of its knowledge of the details of the investigation concerned, which measure is to be used. However, the executing authority should have the possibility to use another type of measure either because the requested measure does not exist or is not available under its national law or because the other type of measure will achieve the same result as the measure provided for in the EIO by less coercive means.
- (11) The execution of an EIO should, to the widest extent possible, and without prejudice to fundamental principles of the law of the executing State, be carried out in accordance with the formalities and procedures expressly indicated by the issuing State. The issuing authority may request that one or several authorities of the issuing State assist in the execution of the EIO in support of the competent authorities of the executing State. This possibility does not imply any law enforcement powers for the authorities of the issuing State in the territory of the executing State.
- (12) To ensure the effectiveness of judicial cooperation in criminal matters, the possibility of refusing to recognise or execute the EIO, as well as the grounds for postponing its execution, should be limited.
- (13) Time restrictions are necessary to ensure quick, effective and consistent cooperation between the Member States in criminal matters. The decision on the recognition or execution, as well as the actual execution of the investigative measure, should be carried out with the same celerity and priority as for a similar national case. Deadlines should be provided to ensure a decision or execution within reasonable time or to meet procedural constraints in the issuing State.
- (14) The EIO provides a single regime for obtaining evidence. Additional rules are however necessary for some types of investigative measures which should be included in the EIO, such as the temporary transfer of persons held in custody, hearing by video or telephone conference, obtaining of information related to bank accounts or banking transactions or controlled deliveries. Investigative measures implying a gathering of evidence in real time, continuously and over a certain period of time are covered by the EIO, but flexibility should be given to the executing authority for these measures given the differences existing in the national laws of the Member States.
- (15) This Directive replaces Framework Decisions 2003/577/JHA and 2008/978/JHA as well as the various instruments on mutual legal assistance in criminal matters in so far as they deal with obtaining evidence for the use of proceedings in criminal matters.
- (16) Since the objective of this Directive, namely the mutual recognition of decisions taken to obtain evidence, cannot be sufficiently achieved by the Member States and can therefore, by reason of the scale and effects of the action, be better achieved at the level of the Union, the Union may adopt measures in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary to achieve that objective.

⁽¹⁾ OJ L 239, 22.9.2000, p. 19.

(17) This Directive respects the fundamental rights and observes the principles recognised by Article 6 of the Treaty on European Union and by the Charter of Fundamental Rights of the European Union, notably Title VI thereof. Nothing in this Directive may be interpreted as prohibiting refusal to execute an EIO when there are reasons to believe, on the basis of objective elements, that the EIO has been issued for the purpose of prosecuting or punishing a person on account of his or her sex, racial or ethnic origin, religion, sexual orientation, nationality, language or political opinions, or that the person's position may be prejudiced for any of these reasons.

(18) [In accordance with Article 3 of Protocol No 21 on the Position of the United Kingdom and Ireland in respect of the area of Freedom, Security and Justice annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, the United Kingdom and Ireland have notified their wish to take part in the adoption of this Directive.]

(19) In accordance with Articles 1 and 2 of Protocol No 22 on the Position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Directive and is not bound by it or subject to its application,

HAVE ADOPTED THIS DIRECTIVE:

CHAPTER I

THE EUROPEAN INVESTIGATION ORDER

Article 1

Definition of the European Investigation Order and obligation to execute it

1. The European Investigation Order (EIO) shall be a judicial decision issued by a competent authority of a Member State ('the issuing State') in order to have one or several specific investigative measure(s) carried out in another Member State ('the executing State') with a view to gathering evidence within the framework of the proceedings referred to in Article 4.

2. Member States shall execute any EIO on the basis of the principle of mutual recognition and in accordance with the provisions of this Directive.

3. This Directive shall not have the effect of modifying the obligation to respect the fundamental rights and legal principles as enshrined in Article 6 of the Treaty on European Union, and any obligations incumbent on judicial authorities in this respect shall remain unaffected. This Directive shall likewise not have the effect of requiring Member States to take any measures which conflict with their constitutional rules relating to freedom of association, freedom of the press and freedom of expression in other media.

Article 2

Definitions

For the purposes of this Directive:

(a) 'issuing authority' means:

(i) a judge, a court, an investigating magistrate or a public prosecutor competent in the case concerned; or

(ii) any other judicial authority as defined by the issuing State and, in the specific case, acting in its capacity as an investigating authority in criminal proceedings with competence to order the gathering of evidence in accordance with national law,

(b) 'executing authority' shall mean an authority having competence to recognise or execute an EIO in accordance with this Directive. The executing authority shall be an authority competent to undertake the investigative measure mentioned in the EIO in a similar national case.

Article 3

Scope of the EIO

1. The EIO shall cover any investigative measure with the exception of the measures referred to in paragraph 2.

2. The following measures shall not be covered by the EIO:

(a) the setting up of a joint investigation team and the gathering of evidence within such a team as provided in Article 13 of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union ⁽¹⁾ (hereinafter referred to as 'the Convention') and in Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams ⁽²⁾;

⁽¹⁾ OJ C 197, 12.7.2000, p. 3.

⁽²⁾ OJ L 162, 20.6.2002, p. 1.

(b) the interception and immediate transmission of telecommunications referred to in Articles 18(1)(a) of the Convention; and

(c) the interception of telecommunications referred to in Article 18(1)(b) of the Convention insofar as they relate to situations referred to in Article 18(2)(a) and (c) and Article 20 of that Convention.

Article 4

Types of procedure for which the EIO can be issued

The EIO may be issued:

(a) with respect to criminal proceedings brought by, or that may be brought before, a judicial authority in respect of a criminal offence under the national law of the issuing State;

(b) in proceedings brought by administrative authorities in respect of acts which are punishable under the national law of the issuing state by virtue of being infringements of the rules of law and where the decision may give rise to proceedings before a court having jurisdiction, in particular, in criminal matters;

(c) in proceedings brought by judicial authorities in respect of acts which are punishable under the national law of the issuing state by virtue of being infringements of the rules of law, and where the decision may give rise to proceedings before a court having jurisdiction, in particular, in criminal matters, and

(d) in connection with proceedings referred to in points (a), (b), and (c) which relate to offences or infringements for which a legal person may be held liable or punished in the issuing state.

Article 5

Content and form of the EIO

1. The EIO set out in the form provided for in Annex A shall be completed, signed, and its content certified as accurate by the issuing authority.

2. Each Member State shall indicate the language(s) which, among the official languages of the institutions of the Union

and in addition to the official language(s) of the Member State concerned, may be used for completing or translating the EIO when the State in question is the executing State.

CHAPTER II

PROCEDURES AND SAFEGUARDS FOR THE ISSUING STATE

Article 6

Transmission of the EIO

1. The EIO shall be transmitted from the issuing authority to the executing authority by any means capable of producing a written record under conditions allowing the executing State to establish authenticity. All further official communication shall be made directly between the issuing authority and the executing authority.

2. Without prejudice to Article 2(b), each Member State may designate a central authority or, when its legal system so provides, more than one central authority, to assist the judicial competent authorities. A Member State may, if necessary as a result of the organisation of its internal judicial system, make its central authority(ies) responsible for the administrative transmission and receipt of the EIO, as well as for other official correspondence relating thereto.

3. If the issuing authority so wishes, transmission may be effected via the secure telecommunications system of the European Judicial Network.

4. If the executing authority is unknown, the issuing authority shall make all necessary inquiries, including via the European Judicial Network contact points, in order to obtain the information from the executing State.

5. When the authority in the executing State which receives the EIO has no jurisdiction to recognise it and to take the necessary measures for its execution, it shall, *ex officio*, transmit the EIO to the executing authority and so inform the issuing authority.

6. All difficulties concerning the transmission or authenticity of any document needed for the execution of the EIO shall be dealt with by direct contacts between the issuing and executing authorities involved or, where appropriate, with the involvement of the central authorities of the Member States.

*Article 7***EIO related to an earlier EIO**

1. Where the issuing authority issues an EIO which supplements an earlier EIO, it shall indicate this fact in the EIO in accordance with the form provided for in Annex A.

2. Where, in accordance with Article 8(3), the issuing authority assists in the execution of the EIO in the executing State, it may, without prejudice to notifications made under Article 28(1)(c), address an EIO which supplements the earlier EIO directly to the executing authority, while present in that State.

CHAPTER III

PROCEDURES AND SAFEGUARDS FOR THE EXECUTING STATE*Article 8***Recognition and execution**

1. The executing authority shall recognise an EIO, transmitted in accordance with Article 6, without any further formality being required, and shall forthwith take the necessary measures for its execution in the same way and under the same modalities as if the investigative measure in question had been ordered by an authority of the executing State, unless that authority decides to invoke one of the grounds for non-recognition or non-execution provided for in Article 10 or one of the grounds for postponement provided for in Article 14.

2. The executing authority shall comply with the formalities and procedures expressly indicated by the issuing authority unless otherwise provided in this Directive and provided that such formalities and procedures are not contrary to the fundamental principles of law of the executing State.

3. The issuing authority may request that one or several authorities of the issuing State assist in the execution of the EIO in support to the competent authorities of the executing State. The executing authority shall comply with this request provided that such participation is not contrary to the fundamental principles of law of the executing State.

4. The issuing and executing authorities may consult each other, by any appropriate means, with a view to facilitating the efficient application of this Article.

*Article 9***Recourse to a different type of investigative measure**

1. The executing authority may decide to have recourse to an investigative measure other than that provided for in the EIO when:

- (a) the investigative measure indicated in the EIO does not exist under the law of the executing State;
- (b) the investigative measure indicated in the EIO exists in the law of the executing State but its use is restricted to a list or category of offences which does not include the offence covered by the EIO, or
- (c) the investigative measure selected by the executing authority will have the same result as the measure provided for in the EIO by less coercive means.

2. When the executing authority decides to avail itself of the possibility referred to in paragraph 1, it shall first inform the issuing authority, which may decide to withdraw the EIO.

*Article 10***Grounds for non-recognition or non-execution**

1. Recognition or execution of an EIO may be refused in the executing State where:

- (a) there is an immunity or a privilege under the law of the executing State which makes it impossible to execute the EIO;
- (b) in a specific case, its execution would harm essential national security interests, jeopardise the source of the information or involve the use of classified information relating to specific intelligence activities;
- (c) in the cases referred to in Article 9(1)(a) and (b), there is no other investigative measure available which will make it possible to achieve a similar result, or
- (d) the EIO has been issued in proceedings referred to in Article 4(b) and (c) and the measure would not be authorised in a similar national case.

2. In the cases referred to in paragraph 1(b) and (c), before deciding not to recognise or not to execute an EIO, either totally or in part, the executing authority shall consult the issuing authority, by any appropriate means, and shall, where appropriate, ask it to supply any necessary information without delay.

*Article 11***Deadlines for recognition or execution**

1. The decision on the recognition or execution shall be taken and the investigative measure shall be carried out with the same celerity and priority as for a similar national case and, in any case, within the deadlines provided in this Article.

2. Where the issuing authority has indicated in the EIO that, due to procedural deadlines, the seriousness of the offence or other particularly urgent circumstances, shorter deadlines than those provided for in this Article are necessary, or if the issuing authority has stated in the EIO that the investigative measure must be carried out on a specific date, the executing authority shall take as full account as possible of this requirement.

3. The decision on the recognition or execution shall be taken as soon as possible and, without prejudice to paragraph 5, no later than 30 days after the receipt of the EIO by the competent executing authority.

4. Unless either grounds for postponement under Article 14 exist or evidence referred to in the investigative measure covered by the EIO is already in the possession of the executing State, the executing authority shall carry out the investigative measure without delay and, without prejudice to paragraph 5, no later than 90 days after the decision referred to in paragraph 3 is taken.

5. When it is not practicable in a specific case for the competent executing authority to meet the deadline set out in paragraph 3, it shall without delay inform the competent authority of the issuing State by any means, giving the reasons for the delay and the estimated time needed for the decision to be taken. In this case, the time limit laid down in paragraph 3 may be extended by a maximum of 30 days.

6. When it is not practicable in a specific case for the competent executing authority to meet the deadline set out in paragraph 4, it shall without delay inform the competent authority of the issuing State by any means, giving the reasons for the delay, and shall consult with the issuing authority on the appropriate timing to carry out the measure.

Article 12

Transfer of evidence

1. The executing authority shall without undue delay transfer the evidence obtained as a result of the execution of the EIO to the issuing State. Where requested in the EIO and if possible under national law of the executing State, the evidence shall be immediately transferred to the competent authorities of the issuing State assisting in the execution of the EIO in accordance with Article 8(3).

2. When transferring the evidence obtained, the executing authority shall indicate whether it requires it to be returned to the executing State as soon as it is no longer required in the issuing State.

Article 13

Legal remedies

Legal remedies shall be available for the interested parties in accordance with national law. The substantive reasons for issuing the EIO can be challenged only in an action brought before a court of the issuing State.

Article 14

Grounds for postponement of recognition or execution

1. The recognition or execution of the EIO may be postponed in the executing State where:

- (a) its execution might prejudice an ongoing criminal investigation or prosecution, until such time as the executing State deems reasonable; or
- (b) the objects, documents, or data concerned are already being used in other proceedings, until such time as they are no longer required for this purpose.

2. As soon as the ground for postponement has ceased to exist, the executing authority shall forthwith take the necessary measures for the execution of the EIO and inform the issuing authority thereof by any means capable of producing a written record.

Article 15

Obligation to inform

1. The competent authority in the executing State which receives the EIO shall, without delay and in any case within a week of receipt of the EIO, acknowledge this reception by completing and sending the form provided in Annex B. Where a central authority has been designated in accordance with Article 6(2), this obligation is applicable both to the central authority and to the executing authority which receives the EIO via the central authority. In cases referred to in Article 6(5), this obligation applies both to the competent authority which initially received the EIO and to the executing authority to which the EIO is finally transmitted.

2. Without prejudice to Article 9(2), the executing authority shall inform the issuing authority:

(a) immediately by any means where:

- (i) it is impossible for the executing authority to take a decision on the recognition or execution due to the fact that the form provided for in the Annex is incomplete or manifestly incorrect;

(ii) the executing authority, in the course of the execution of the EIO, considers without further enquiries that it may be appropriate to undertake investigative measures not initially foreseen, or which could not be specified when the EIO was issued, in order to enable the issuing authority to take further action in the specific case;

(iii) the executing authority establishes that, in the specific case, it cannot comply with formalities and procedures expressly indicated by the issuing authority in accordance with Article 8.

Upon request by the issuing authority, the information shall be confirmed without delay by any means capable of producing a written record;

(b) without delay by any means capable of producing a written record:

(i) any decision taken in accordance with Article 10(1);

(ii) the postponement of the execution or recognition of the EIO, the underlying reasons and, if possible, the expected duration of the postponement.

Article 16

Criminal liability regarding officials

When present in the territory of the executing State in the framework of the application of this Directive, officials from the issuing State shall be regarded as officials of the executing State with respect to offences committed against them or by them.

Article 17

Civil liability regarding officials

1. Where, in the framework of the application of this Directive, officials of the issuing State are present in the territory of the executing State, the issuing State shall be liable for any damage caused by them during their operations, in accordance with the law of the executing State.

2. The Member State in whose territory the damage referred to in paragraph 1 was caused shall make good such damage under the conditions applicable to damage caused by its own officials.

3. The Member State whose officials have caused damage to any person in the territory of another Member State shall reimburse the latter in full any sums it has paid to the victims or persons entitled on their behalf.

4. Without prejudice to the exercise of its rights vis-à-vis third parties and with the exception of paragraph 3, each Member State shall refrain in the case provided for in paragraph 1 from requesting reimbursement of damages it has sustained from another Member State.

Article 18

Confidentiality

1. Each Member State shall take the necessary measures to ensure that the issuing and executing authorities take due account, in the execution of an EIO, of the confidentiality of the investigation.

2. The executing authority shall, in accordance with its national law, guarantee the confidentiality of the facts and substance of the EIO, except to the extent necessary to execute the investigative measure. If the executing authority cannot comply with the requirement of confidentiality, it shall without delay notify the issuing authority.

3. The issuing authority shall, in accordance with its national law and unless otherwise indicated by the executing authority, keep confidential any evidence or information provided by the executing authority, except to the extent that its disclosure is necessary for the investigations or proceedings described in the EIO.

4. Each Member State shall take the necessary measure to ensure that banks do not disclose to the bank customer concerned or to other third persons that information has been transmitted to the issuing State in accordance with Articles 23, 24 and 25 or that an investigation is being carried out.

CHAPTER IV

SPECIFIC PROVISIONS FOR CERTAIN INVESTIGATIVE MEASURES

Article 19

Temporary transfer to the issuing State of persons held in custody for purpose of investigation

1. An EIO may be issued for the temporary transfer of a person in custody in the executing State in order to have an investigative measure carried out for which his presence on the territory of the issuing State is required, provided that he shall be sent back within the period stipulated by the executing State.

2. In addition to the grounds for refusal referred to in Article 10(1), the execution of the EIO may also be refused if:

(a) the person in custody does not consent; or

(b) the transfer is liable to prolong his detention.

3. In a case under paragraph 1, transit of the person in custody through the territory of a third Member State shall be granted on application, accompanied by all necessary documents.

4. The practical arrangements regarding the temporary transfer of the person and the date by which he must be returned to the territory of the executing State shall be agreed between the Member States concerned.

5. The transferred person shall remain in custody in the territory of the issuing State and, where applicable, in the territory of the Member State through which transit is required, unless the executing Member State applies for his release.

6. The period of custody in the territory of the issuing Member State shall be deducted from the period of detention which the person concerned is or will be obliged to undergo in the territory of the executing Member State.

7. A transferred person shall not be prosecuted or detained or subjected to any other restriction of his personal liberty for acts or convictions which precede his departure from the territory of the executing State and which are not specified in the EIO.

8. The immunity provided for in paragraph 7 shall cease when the transferred person, having had for a period of fifteen consecutive days from the date when his presence is no longer required by the judicial authorities an opportunity to leave, has nevertheless remained in the territory, or having left it, has returned.

9. Costs arising from the transfer shall be borne by the issuing State.

Article 20

Temporary transfer to the executing State of persons held in custody for the purpose of investigation

1. An EIO may be issued for the temporary transfer of a person held in custody in the issuing State in order to have an investigative measure carried out for which his presence on the territory of the executing State is required.

2. In addition to the grounds for refusal referred to in Article 10 (1), the execution of the EIO may also be refused if:

(a) consent to the transfer is required from the person concerned and this consent has not been obtained; or

(b) the issuing and executing authorities cannot reach an agreement on the arrangements for the temporary transfer.

3. Where consent to the transfer is required from the person concerned, a statement of consent or a copy thereof shall be provided without delay to the executing authority.

4. Each Member State may indicate that, before executing the EIO, the consent referred to in paragraph 3 is required under certain conditions indicated in the notification.

5. Paragraphs 3 to 8 of Article 19 are applicable *mutatis mutandis* to the temporary transfer under this Article.

6. Costs arising from the transfer shall be borne by the issuing State. This does not include costs arising from the detention of the person in the executing State.

Article 21

Hearing by videoconference

1. If a person is in the territory of the executing State and has to be heard as a witness or expert by the judicial authorities of the issuing State, the issuing authority may, where it is not desirable or possible for the person to be heard to appear in its territory in person, issue an EIO in order to hear the witness or expert by videoconference, as provided for in paragraphs 2 to 9.

2. In addition to the grounds for refusal referred to in Article 10(1), the execution of the EIO may also be refused if:

(a) the use of videoconference is contrary to fundamental principles of the law of the executing State; or

(b) the executing State does not have the technical means for videoconference.

3. If the executing State has no access to the technical means for videoconferencing, such means may be made available to it by the issuing State by mutual agreement.

4. Article 10(2) is applicable *mutatis mutandis* to cases referred to in paragraph 2(b).

5. The EIO issued for the purpose of a hearing by videoconference shall contain the reason why it is not desirable or possible for the witness or expert to attend in person, the name of the judicial authority and of the persons who will be conducting the hearing.

6. In case of a hearing by videoconference, the following rules shall apply:

- (a) a judicial authority of the executing State shall be present during the hearing, where necessary assisted by an interpreter, and shall also be responsible for ensuring both the identification of the person to be heard and respect for the fundamental principles of the law of the executing State. If the executing authority is of the view that during the hearing the fundamental principles of the law of the executing State are being infringed, it shall immediately take the necessary measures to ensure that the hearing continues in accordance with the said principles;
- (b) measures for the protection of the person to be heard shall be agreed, where necessary, between the competent authorities of the issuing and the executing State;
- (c) the hearing shall be conducted directly by, or under the direction of, the issuing authority in accordance with its own laws;
- (d) at the request of the issuing State or the person to be heard, the executing State shall ensure that the person to be heard is assisted by an interpreter, if necessary;
- (e) the person to be heard may claim the right not to testify which would accrue to him under the law of either the executing or the issuing State.

7. Without prejudice to any measures agreed for the protection of the persons, the executing authority shall on the conclusion of the hearing draw up minutes indicating the date and place of the hearing, the identity of the person heard, the identities and functions of all other persons in the executing State participating in the hearing, any oaths taken and the technical conditions under which the hearing took place. The document shall be forwarded by the executing authority to the issuing authority.

8. The cost of establishing the video link, costs related to the servicing of the video link in the executing State, the remuneration of interpreters provided by it and allowances to witnesses and experts and their travelling expenses in the executing State shall be refunded by the issuing State to the executing State, unless the latter waives the refunding of all or some of these expenses.

9. Each Member State shall take the necessary measures to ensure that, where witnesses or experts are being heard within

its territory in accordance with this Article and refuse to testify when under an obligation to testify or do not testify the truth, its national law applies in the same way as if the hearing took place in a national procedure.

10. An EIO may also be issued for the purpose of the hearing of an accused person by videoconference. Paragraphs 1 to 9 shall apply *mutatis mutandis*. In addition to the grounds for refusal referred to in Article 10(1), the execution of the EIO may also be refused if:

- (a) the accused person does not consent; or
- (b) the execution of such a measure would be contrary to the law of the executing State.

Article 22

Hearing by telephone conference

1. If a person is in the territory of one Member State and has to be heard as a witness or expert by judicial authorities of another Member State, the issuing authority of the latter Member State may issue an EIO in order to hear a witness or expert by telephone conference, as provided for in paragraphs 2 to 4.

2. In addition to the grounds for refusal referred to in Article 10(1), the execution of the EIO may also be refused if

- (a) the use of teleconference is contrary to fundamental principles of the law of the executing State; or
- (b) the witness or expert does not agree to the hearing taking place by that method.

3. The EIO issued for a hearing by telephone conference shall contain the name of the judicial authority and of the persons who will be conducting the hearing and an indication that the witness or expert is willing to take part in a hearing by telephone conference.

4. The practical arrangements regarding the hearing shall be agreed between the issuing and the executing authority. When agreeing such arrangements, the executing authority shall undertake to:

- (a) notify the witness or expert concerned of the time and the venue of the hearing;

- (b) ensure the identification of the witness or expert; and
- (c) verify that the witness or expert agrees to the hearing by telephone conference.

The executing State may make its agreement subject, fully or in part, to the relevant provisions of Article 21(6) and (9). Unless otherwise agreed, the provisions of Article 21(8) shall apply *mutatis mutandis*.

Article 23

Information on bank accounts

1. An EIO may be issued in order to determine whether a natural or legal person that is the subject of a criminal investigation holds or controls one or more accounts, of whatever nature, in any bank located in the territory of the executing State.
2. Each Member State shall, under the conditions set out in this Article, take the measures necessary to enable it to provide the information referred to in paragraph 1.
3. The information referred to in paragraph 1 shall also, if requested in the EIO and to the extent that it can be provided within a reasonable time, include accounts for which the person that is the subject of the proceedings has powers of attorney.
4. The obligation set out in this Article shall apply only to the extent that the information is in the possession of the bank keeping the account.
5. In addition to the grounds for refusal referred to in article 10(1), the execution of an EIO referred to in paragraph 1 may also be refused if the offence concerned is not:

- (a) an offence punishable by a penalty involving deprivation of liberty or a detention order of a maximum period of at least four years in the issuing State and at least two years in the executing State;
- (b) an offence referred to in Article 4 of Council Decision of 6 April 2009 establishing the European Police Office (Europol) (hereinafter referred to as 'the Europol Decision')⁽¹⁾; or

⁽¹⁾ OJ L 121, 15.5.2009, p. 37.

- (c) to the extent that it may not be covered by the Europol Decision, an offence referred to in the 1995 Convention on the Protection of the European Communities' Financial Interests⁽²⁾, the 1996 Protocol thereto⁽³⁾, or the 1997 Second Protocol thereto⁽⁴⁾.

6. The issuing authority shall state in the EIO why it considers that the requested information is likely to be of substantial value for the purpose of the investigation into the offence and on what grounds it presumes that banks in the executing State hold the account and, to the extent available, which banks may be involved. It shall also include in the EIO any information available which may facilitate its execution.

Article 24

Information on banking transactions

1. An EIO may be issued in order to obtain the particulars of specified bank accounts and of banking operations which have been carried out during a specified period through one or more accounts specified within, including the particulars of any sending or recipient account.
2. Each Member State shall, under the conditions set out in this Article, take the measures necessary to be able to provide the information referred to in paragraph 1.
3. The obligation set out in this Article shall apply only to the extent that the information is in the possession of the bank holding the account.
4. The issuing State shall indicate in the EIO why it considers the requested information relevant for the purpose of the investigation into the offence.

Article 25

The monitoring of banking transactions

1. An EIO may be issued in order to monitor, during a specified period, the banking operations that are being carried out through one or more accounts specified within.
2. Each Member State shall, under the conditions set out in the Article, take the measures necessary to enable it to provide the information referred to in paragraph 1.
3. The issuing State shall indicate in the EIO why it considers the requested information relevant for the purpose of the investigation into the offence.
4. The practical details regarding the monitoring shall be agreed between the competent authorities of the issuing and the executing States.

⁽²⁾ OJ C 316, 27.11.1995, p. 49.

⁽³⁾ OJ C 313, 23.10.1996, p. 2.

⁽⁴⁾ OJ C 221, 19.7.1997, p. 12.

Article 26

Controlled deliveries

1. An EIO may be issued to undertake a controlled delivery on the territory of the executing State.
2. The right to act and to direct and control operations related to the execution of an EIO referred to in paragraph 1 shall lie with the competent authorities of the executing State.

Article 27

Investigative measures implying the gathering of evidence in real time, continuously and over a certain period of time

1. When the EIO is issued for the purpose of executing a measure, including the measures referred to in Articles 25 and 26, implying the gathering of evidence in real time, continuously and over a certain period of time, its execution may be refused, in addition to the grounds for refusal referred to in Article 10(1), if the execution of the measure concerned would not be authorised in a similar national case.
2. Article 10(2) applies *mutatis mutandis* to cases referred to in paragraph 1.
3. The executing authority may make the execution of an EIO referred to in paragraph 1 subject to an agreement on the allocation of costs.

CHAPTER V

FINAL PROVISIONS

Article 28

Notifications

1. By ... (*) each Member State shall notify the Commission of the following:
 - (a) the authority or authorities which, in accordance with its internal legal order, are competent according to Article 2 (a) and (b) when this Member State is the issuing State or the executing State;
 - (b) the languages accepted for the EIO, as referred to in Article 5(2);
 - (c) the information regarding the designated central authority or authorities if the Member State wishes to make use of the possibility under Article 6(2). This information shall be binding upon the authorities of the issuing State;

(*) Two years from the entry into force of this Directive.

- (d) the requirement of consent to the transfer from the person concerned in the case the Member State wishes to make use of the possibility provided for in Article 20(4).

2. Member States shall inform the Commission of any subsequent changes to the information referred to in paragraph 1.

3. The Commission shall make the information received in application of this Article available to all the Member States and to the European Judicial Network (EJN). The EJN shall make the information available on the website referred to in Article 9 of the Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network ⁽¹⁾.

Article 29

Relations to other agreements and arrangements

1. Without prejudice to their application between Member States and third States and their temporary application by virtue of Article 30, this Directive replaces, as from ..., (*) the corresponding provisions of the following conventions applicable in the relationships between the Member States bound by this Directive:
 - European Convention on mutual legal assistance in criminal matters of 20 April 1959 as well as its two additional protocols of 17 March 1978 and 8 November 2001 and the bilateral agreements concluded pursuant to Article 26 of that Convention;
 - Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985;
 - Convention of 29 May 2000 regarding mutual legal assistance in criminal matters between the Member States of the EU and its protocol of 16 October 2001.

2. Framework Decision 2008/978/JHA is repealed. This Directive applies between the Member States to the freezing of items of evidence in substitution for the corresponding provisions of Framework Decision 2003/577/JHA.

3. Member States may continue to apply the bilateral or multilateral agreements or arrangements in force after ... (*) insofar as these make it possible to go beyond the aims of this Directive and contribute to simplifying or further facilitating the evidence gathering procedures.

(1) OJ L 348, 24.12.2008, p. 130.

4. Member States may conclude bilateral or multilateral agreements and arrangements after ... (*) insofar as these make it possible to go further into or extend the provisions of this Directive and contribute to simplifying or further facilitating the evidence gathering procedures.

5. Member States shall notify to the Commission by ... (**) the existing agreements and arrangements referred to in paragraph 3 which they wish to continue to apply. The Member States shall also notify the Commission within three months of the signing of any new agreement or arrangement referred to paragraph 4.

6. If the Commission is of the view that a bilateral or multilateral agreement or arrangement notified to it does not comply with the conditions set out in paragraphs 3 and 4, it shall invite the Member States concerned to terminate, modify or refrain from concluding the agreement or arrangement in question.

Article 30

Transitional arrangements

1. Mutual assistance requests received before ... (***) shall continue to be governed by existing instruments relating to mutual assistance in criminal matters. Decisions to freeze evidence by virtue of Framework Decision 2003/577/JHA and received before ... (***) shall also be governed by the latter.

2. Article 7(1) is applicable *mutatis mutandis* to the EIO following a decision of freezing taken by virtue of Framework Decision 2003/577/JHA.

Article 31

Transposition

1. Member States shall take the necessary measures to comply with this Directive by ... (**).

2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

3. By ... (**), Member States shall transmit to the General Secretariat of the Council and to the Commission the text of the provisions transposing into their national law the obligations imposed on them under this Directive.

4. The Commission shall, by ... (***), submit a report to the European Parliament and to the Council, assessing the extent to which the Member States have taken the necessary measures in order to comply with this Directive, accompanied, if necessary, by legislative proposals.

Article 32

Report on the application

No later than five years after the date of entry into force of this Directive, the Commission shall present to the European Parliament and the Council a report on the application of this Directive, on the basis of both qualitative and quantitative information. The report shall be accompanied, if necessary, by proposals for amending this Directive.

Article 33

Entry into force

This Directive shall enter into force on the twentieth day following its publication in the *Official Journal of the European Union*.

Article 34

Addressees

This Directive is addressed to the Member States in accordance with the Treaties.

Done at ...

For the European Parliament
The President

For the Council
The President

...

...

(*) The date of entry into force of this Directive.

(**) Three months after the entry into force of this Directive.

(***) Two years after the entry into force of this Directive.

(****) Three years after the entry into force of this Directive.

ANNEX A

EUROPEAN INVESTIGATION ORDER (EIO)

This EIO has been issued by a competent judicial authority. I request that the investigative measure or measures specified below be carried out and the evidence thereafter obtained as a result of the execution of the EIO be transferred.

(A) INVESTIGATIVE MEASURE TO BE CARRIED OUT

1. Description of the investigative measure(s) for which the execution is required:

.....
.....
.....
.....

2. If the investigative measure(s) relates to one or more of the specific investigative measure(s) listed below, please indicate it by ticking the relevant box(es):

- Temporary transfer to the issuing State of persons held in custody for the purpose of investigation
- Temporary transfer to the executing State of a persons held in custody for the purpose of investigation
- Hearing by videoconference
- Hearing by telephone conference
- Information on bank accounts
- Information on banking transactions
- The monitoring of banking transactions
- Controlled deliveries
- Investigative measures implying gathering of evidence in real time, continuously and over a certain period of time

3. Where applicable, location of the execution (if not known, the last known location):

.....
.....
.....
.....

(B) IDENTITY OF THE PERSONS CONCERNED

Information regarding the identity of the (i) natural or (ii) legal person(s) against whom the proceedings are/may be/is taking place:

(i) In the case of natural person(s)

Name:

Forename(s):

Maiden name, if applicable:

Aliases, if applicable:

Sex:

Nationality:

Date of birth:

Place of birth:

Residence and/or known address; if address not known, state the last known address:

.....

Language(s) which the person understands (if known):

.....

(ii) In the case of legal person(s)

Name:

Form of legal person:

Shortened name, commonly used name or trading name, if applicable:

.....

Registered seat (if available):

Registration number (if available):

Address of the legal person:

(C) THE JUDICIAL AUTHORITY WHICH ISSUED THE EIO

Official name:

.....

Name of its representative:

.....

Post held (title/grade):

.....

File reference:

.....

Address:

.....

.....

Tel. No: (country code) (area/city code)

.....

Fax No: (country code) (area/city code)

.....

E-mail:

.....

Languages in which it is possible to communicate with the issuing authority:

.....

Contact details of the person(s) to contact if additional information on the execution of this EIO is necessary or to make necessary practical arrangements for the transfer of the evidence:

.....

.....

(D) RELATION TO POSSIBLE EARLIER EIO

If applicable, indicate if this EIO supplements an earlier EIO and, if so, provide information relevant to identify the earlier EIO (the date of issue of such EIO, the authority to which it was transmitted and, if available, the date of transmission of the EIO, and reference numbers given by the issuing and executing authorities).

.....
.....
.....
.....

(E) TYPE OF PROCEEDINGS FOR WHICH THE EIO WAS ISSUED

Tick the type of proceedings for which the EIO was issued

- a) with respect to criminal proceedings brought by, or that may be brought before, a judicial authority in respect of a criminal offence under the national law of the issuing State; or
- b) proceedings brought by administrative authorities in respect of acts which are punishable under the national law of the issuing State by virtue of being infringements of the rules of law, and where the decision may give rise to proceedings before a court having jurisdiction in particular in criminal matters; or
- c) proceedings brought by judicial authorities in respect of acts which are punishable under the national law of the issuing State by virtue of being infringements of the rules of law, and where the decision may give rise to further proceedings before a court having jurisdiction in particular in criminal matters.

(F) REASON FOR ISSUING THE EIO

1. Summary of the facts and description of the circumstances in which the offence(s) underlying the EIO has (have) been committed, including time and place, as known to the issuing authority:

.....
.....
.....
.....

2. Nature and legal classification of the offence(s) resulting in the EIO and the applicable statutory provision/code:

.....
.....
.....
.....

(G) EXECUTION OF THE EIO

1. Deadlines for execution of the EIO are laid down in Directive XXX/.../JHA. However, if a shorter deadline is necessary, please indicate any earlier deadline and the reason for this by ticking the relevant box:

Earlier deadline or specific deadline: (dd/mm/yyyy)

Reasons:

procedural deadlines

seriousness of the offence

other particularly urgent circumstances (please specify):

.....
.....

(H) SPECIFIC MODALITIES FOR THE EXECUTION

1. Tick and complete, if applicable

It is requested that the executing authority comply with the following formalities and procedures (1)

.....
.....
.....
.....

2. Tick and complete, if applicable

It is requested that one or several authorities of the issuing State assist in the execution of the EIO in support to the competent authorities of the executing State (2).

Official name of the above-mentioned authority or authorities:

.....

Contact details:

(I) FINAL PROVISIONS AND SIGNATURE

1. Other information relevant to the case, if any:

.....
.....

2. Signature of the issuing authority and/or its representative certifying the content of the EIO as accurate:

.....

Name:

Post held (title/grade):

Date:

Official stamp (if available):

(1) It is assumed that the executing authority will comply with the formalities and procedures indicated by the issuing authority unless they are contrary to the fundamental principles of the law of the executing State.

(2) This possibility does not imply any law enforcement powers for the authorities of the issuing State in the territory of the executing State.

ANNEX B

CONFIRMATION OF THE RECEIPT OF AN EIO

This form has to be completed by the authority of the executing State which received the EIO referred to below.

(A) THE EIO CONCERNED

Judicial authority which issued the EIO:

.....

File reference:

.....

Date of issuing:

.....

Date of reception:

.....

(B) THE AUTHORITY WHICH RECEIVED THE EIO (1)

Official name of the competent authority:

.....

Name of its representative:

.....

Post held (title/grade):

.....

Address:

.....

Tel. No: (country code) (area/city code)

.....

Fax No: (country code) (area/city code)

.....

E-mail:

.....

File reference:

.....

Languages in which it is possible to communicate with the authority:

.....

(1) This section is to be completed by each authority which received the EIO. This obligation falls upon the authority competent to recognise and execute the EIO and, where applicable, upon the central authority or the authority which transmitted the EIO to the competent authority.

(C) (WHERE APPLICABLE) THE COMPETENT AUTHORITY TO WHOM THE EIO IS TRANSMITTED BY THE AUTHORITY UNDER (B)

Official name of the authority:

.....

Name of its representative:

.....

Post held (title/grade):

.....

Address:

.....

.....

Tel. No: (country code) (area/city code)

.....

Fax No: (country code) (area/city code)

.....

E-mail:

.....

Date of transmission:

.....

(D) SIGNATURE AND DATE

Signature:

Date:

Official stamp (if available):

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