

Fight against crime: exchange of information and intelligence between law enforcement authorities of the Member States. Framework Decision.

Initiative Sweden

2004/0812(CNS) - 04/06/2004 - Legislative proposal

PURPOSE: to simplifying the exchange of information and intelligence regarding serious offences, including terrorist acts.

PROPOSED ACT: Framework Decision.

CONTENT: this Framework Decision is being proposed on the initiative of the Kingdom of Sweden. The stated intention of the Decision is to establish rules under which Member States' law enforcement authorities exchange information and intelligence relating to crime investigations including terrorist acts. The Decision notes that one of the Union's core objectives is to provide its citizens with a high level of security within an area of freedom, security and justice. This core objective is being seriously undermined by the lack of information exchange between the Member States relating to criminal activities, thanks, in large part, to the continued need for formal procedures, administrative structures and legal obstacles laid down in Member States' legislation. This Council initiative seeks to rectify the situation by adopting a legally binding instrument, which simplifies the exchange of information and intelligence. The actual provisions enshrined in the Framework Decision state that:

- National provisions, bilateral or multilateral agreements, or indeed agreements between the Member States, which are more favourable, will not be prejudiced by the measures in the Decision.
- Member States are not obliged to provide information and intelligence, which can be used before a judicial authority as evidence. Where a Member State has obtained information or intelligence in accordance with the Decision, and wants to use it as evidence in a criminal proceeding, it has to obtain the consent of the Member State that provided the intelligence.
- A number of terms are defined and include: competent law enforcement authorities, crime investigation, criminal intelligence operation and information and intelligence.
- Member States must ensure that information and intelligence can be provided to the competent law enforcement authorities in another Member States. In turn, intelligence can be provided on request by a competent law enforcement authority, acting within the limits conferred upon it by national law, conducting a crime investigation or a criminal intelligence operation.
- Information and intelligence should be provided without delay and Member States should ensure that they have procedures in place to be able to respond to a request within 12 hours. A long catalogue of offences are listed as applying to this measure and range from terrorism, trafficking in human beings to environmental crime and computer-related crime.
- The Communication channels to be used may take place via the SIRENE Bureaux, or through the European Police Office established by the Europol Convention. Alternatively Member States may agree, on a case-by-case, basis for other channels in which information can be exchanged – for example through a liaison officer or directly between national or local law enforcement authorities.

- Provisions relating to the spontaneous exchange of information and intelligence, data protection and confidentiality are included in the Framework Decision.

- Lastly, Member States may refuse to pass on intelligence in cases where the information could harm essential national security interests, jeopardise the success of a current investigation or criminal intelligence operation or in cases where the requested information and intelligence is disproportionate or irrelevant with regard to the purposes for which it has been requested.