

Study to support the preparation of an impact assessment on EU policy initiatives facilitating cross-border law enforcement cooperation

Final Report

Annex IV

Supporting information for the impact assessment

October 2021

This report has been prepared by EY and RAND Europe for the European Commission, Directorate-General for Migration and Home Affairs.

This study was carried out on behalf of the European Commission by



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Supporting information for the impact assessment

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1 METHODOLOGY FOR THE ASSESSMENT OF THE IMPACTS OF THE POLICY OPTIONS

The assessment of the impacts of the policy options were carried out via two sub-tasks:

- Identification and preliminary assessment of the likely impacts; and
- In-depth qualitative and quantitative assessment of the impacts.

Each of the sub-tasks is described in detail below.

1.1 Identification and preliminary assessment of the likely impacts

For each of the policy options, a preliminary assessment of the expected impacts was conducted. The objective of this exercise was to screen the policy options for their most important types of impacts and to select the ones for a more detailed assessment.

The impact-screening of the policy options included a high-level analysis of the extent to which impacts vary:

- Between different types of stakeholders;
- Between Member States/ Schengen Associated Countries and geographical levels;
- In their magnitude and frequency of occurrence;
- Concerning their direction (positive vs. negative);
- Concerning the certainty and frequency of occurrence;

The types of impacts were assessed with regard to the following considerations:

- Direct v. indirect impacts;
- Intendedness of impacts (intended v. unintended);
- Direction of impacts (e.g. positive v. negative);
- Approximate scale of impacts ("high" vs. "low");
- Relative importance of impacts (priority v. subordinate);
- Approximate likelihood of impacts (e.g. likely, more likely than not, unlikely);
- "Urgency" with which the respected impacts are expected to materialise.

Through the planned consultation activities, it was possible to discuss with stakeholders in more detail what the potential policy options could be and how they would impact specifically on law enforcement cooperation in general, as well as on security, the economy, the environment etc.

As concerns the assessment of how different stakeholders (e.g. law enforcement authorities and other public sector bodies, businesses (including SMEs and micro-enterprises), as well as citizens/consumers) were expected to be affected, we identified what action they would need to take to comply with each policy option, as well as resulting changes for them.

The result of this sub-task was a high-level, but comprehensive mapping of different types of impacts per policy option. Taking the mapping of potential impacts as a basis, we selected the most significant impacts for a more in-depth analysis, including a quantitative assessment. For this purpose, we took into account aspects such as the expected magnitude of impacts and the relevance for stakeholders. Based on the preliminary screening of potential impacts of the policy options, we suggested discussing with DG HOME the exact focus of the in-depth assessment in order to focus on the most relevant impacts.

1.2 In-depth qualitative and quantitative assessment of the impacts

This sub-task consisted of an in-depth qualitative and quantitative assessment of the most important impacts of the policy options.

In principle, there are two alternative options for the structure and the assessment of the policy options:

- *Option 1:* Each policy (sub-) option is assessed separately against the baseline scenario. This will result in a wide variety of distinct sub-options that will be assessed individually.
- *Option 2:* Various policy (sub-) options are clustered together to a limited number of policy packages that are being assessed as a whole against the baseline scenario. This will result in a rather limited number of more comprehensive assessments.

A pragmatic approach for the assessment was discussed and decided upon with the Commission in view of the limited timeframe available for the further study process.

Nevertheless, for the assessment of individual (sub-) options or policy packages, detailed assessment tables in relation to the impacts of each were completed (see Table 1).

Based on the qualitative and quantitative data collected throughout the assignment, for each policy option, we described in the respective assessment table the nature and magnitude of the most important impacts of the policy options. The assessment tables includes assessments of the:

- Likelihood (e.g. high, medium, low) that each selected impact will occur (or conversely the risk that the impact will not occur);
- Absolute and absolute magnitude (quantified to proportionate extent within the framework of this assignment);
- Relative size for specific stakeholders, differentiating per group of stakeholders involved and (groups of) Member States/Schengen Associated Countries; and
- Evolution over time (e.g. increase, decrease, stable).

An illustrative assessment table is provided below.

Table 1 – Illustrative assessment table

Assessment criteria		Description of the impacts and affected groups
Content of the Policy Option (summary)		<i>No policy action by the European Commission is taken in the future, apart from what is already underway and / or planned:</i> - <i>No additional regulatory interventions are implemented by the EU (e.g. changes to the SFD or Naples II) in order to improve access to and exchange of information between LEAs and the overall intra-EU cooperation;</i> - <i>No specific "extracurricular" non-regulatory actions are undertaken by the EU such as awareness raising, training, funding etc.;</i> - <i>Bi-, tri-, and multilateral agreements, as well as national legislation will continue to be in place and applied in practice in similar fashion as today;</i> - <i>No technical changes are implemented by the EU, e.g. concerning technical means to share information via SIENA.</i>
Effectiveness		<u><i>Summary of the assessments:</i></u> <i>The effectiveness of the baseline scenario in terms of achieving the policy objectives is expected to be very limited relating to:</i> - <i>Access to and exchange of necessary information between law enforcement authorities;</i> - <i>Joint operations for public order and safety purposes are taking place; and</i> - <i>Use of cross-border investigative tools to fight serious and organised crime.</i> <i>In the baseline scenario, the problems existing today are expected to remain in the future and, thus, hamper the effective and efficient cross-border law enforcement cooperation to fight serious and organised crime, as well as to prevent situations critical for public order and safety.</i> <u><i>Detailed assessments:</i></u> - <i>Likelihood: ...</i> - <i>Magnitude: ...</i> - <i>Relative size: ...</i> - <i>Evolution over time: ...</i>
Impacts	Security Economic	<i>[To be elaborated in the further study process based on the illustrative example above.]</i>

Assessment criteria		Description of the impacts and affected groups
	Social	
	Environmental	
	Fundamental Rights	
Efficiency	Costs	
	Benefits	
Coherence		
Subsidiarity & Proportionality		

Source: Author's elaboration, based on the Better Regulation Guidelines

In particular with regard to the efficiency criterion, the completion of the assessment table was supported by a quantitative analysis of the costs and benefits of the impacts of the policy options.

Based on our experience with similar assignments in the area of law enforcement cooperation, quantitative evidence in this area is scarce (or often confidential) and often does not lend itself to monetisation. Therefore, the aim of this analysis was to quantify and monetise costs and benefits to the extent proportionate within the framework of this assignment.

2 METHODOLOGY FOR COMPARISON OF THE POLICY OPTIONS

Similar to Task 7, the assessment and ranking of the policy options on the basis of well-defined criteria were carried out via two sub-tasks:

- Comparison and ranking of the policy options;
- Identification and assessment of the preferred policy option.

Each of the sub-tasks is described in detail below.

2.1 Comparison and ranking of the policy options

In order to compare and rank the policy options' performance vis-à-vis the baseline scenario, we have applied a Multi-Criteria-Analysis (MCA).

The MCA is a tool for the qualitative analysis and comparison of a complex set of alternatives concerning the extent to which various measures achieve their objectives, are efficient, coherent etc. The MCA is based on qualitative ratings and rankings with quantitative data supporting the assessment.

It is important that the various policy options are sufficiently detailed (including e.g. sub-options) in order to facilitate the comparison and ranking of the policy options' impacts against the baseline scenario. This also necessitates assessment criteria, that are sufficiently detailed in order to provide distinct ratings for each of the elements of the policy (sub-) options.

Transparency in Multi-Criteria-Analyses (MCA)

The MCA is a qualitative tool, and thus always subject to scrutiny concerning the implicit and explicit judgments made during the assessment process. Therefore, it is crucial for the application of the MCA to be transparent about the data used and the sources, as well as how specific data has fed into and shaped the analysis.

There are two alternative approaches, differing in complexity:

- MCA based on a Goeller scorecard; and
- MCA in full alignment with the *Better Regulation Guidelines*.

Both approaches are described in more detail below.

Each method has its own benefits and drawbacks. On the one hand, the MCA based on the Goeller Scorecard is rather intuitive to understand (especially for non-expert outside readers) and lends itself to the comparison of a rather limited number of policy options against the baseline scenario. On the other hand, the MCA in full alignment with the *Better Regulation Guidelines* is a rather scientific process that facilitates the pairwise comparison of a larger set of policy options against the baseline scenario and each other in view of specific criteria-related, weighted ratings. As a consequence, this method does not only enable finding the "best" policy option compared to the baseline scenario but also the establishment of a preference order of policy options – especially in case the ratings used in an MCA based on a Goeller Scorecard are ambiguous.

A two-step approach was implemented in this study: First, an MCA based on a Goeller Scorecard was conducted. Following this, an MCA in full alignment with the *Better Regulation Guidelines* was conducted in addition to finetune the results.

Approach for MCA in full alignment with the Better Regulation Guidelines

The MCA approach used in the Better Regulation Guidelines (see Tool #63) is typically carried out in three steps:

- **Step 1:** Set-up of the framework of criteria and indicators, as well as an assessment grid
- **Step 2:** Establishment of an outranking matrix
- **Step 3:** Assessment through a permutation matrix

Concerning step 1, we compared and ran the policy options vis-à-vis the baseline scenario in relation to the following criteria:

- Effectiveness in achieving the policy objectives;
- Efficiency;
- Coherence of policy options.

The impacts of each policy option vis-à-vis the baseline scenario was assessed and qualitatively ranked against these criteria. This involved the:

- **Definition of a weighting system**, through the attribution of a weight to each assessment criterion reflecting its significance in the impact assessment process: a weight of "1" for more significant criteria and of "0,5" for the other criteria.
- **Definition of a scoring system**, to be used to summarise the assessment of the adequacy of each measure with regard to each judgment criterion, i.e.:
 - Magnitude of impact:
 - Baseline scenario: Always ranked as "0";
 - Other policy options: "1-5"; Little to no impact: "1"; Significant impact: "5";
 - Direction of impact: Negative "-"; Positive "+"
- The ratings themselves are usually based on the triangulation of both qualitative and quantitative data collected throughout a study.
- **Assessment of each measure** and attribution of the scores with regard to each assessment criterion. The awarded score will be complemented with a descriptive assessment, providing a rationale justifying the score and evidence supporting the judgment.

The following table provides an illustrative assessment grid.

Table 2 – Illustrative assessment grid

Criteria	Weight	Direction	BS	PO1	PO2	PO3	...
Effectiveness	1.5	+	0	3	5	2	...
Efficiency	1	+	0	2	3	1	...
Coherence	1	+	0	2	4	5	...

Source: Author's elaboration, based on the Better Regulation Guidelines

In relation to step 2, based on the assessment grid, an outranking matrix was developed. In this matrix, the sums of the weights for all criteria in relation to which a given policy option performs better than other policy options are indicated. Based on the example below, this outranking matrix looks the following way:

Table 3 – Illustrative outranking grid

Policy option	PO1	PO2	PO3
PO1	0	11	9
PO2	2	0	5
PO3	2	8	0

Source: Author's elaboration, based on the Better Regulation Guidelines

In step 3, the outranking matrix was transformed to a policy permutation matrix in which pairings and the coefficients from the outranking matrix of Step 2 are summed up.

The outranking matrix provides a clear overview of which policy option is most favourable, second-most favourable etc.

In case there are three policy options X, Y, Z there are six possible permutations. In case of four policy options, the number of possible permutations increases to 24. For five policy options, there is 120 permutations and for six policy options, 720 permutations are possible. Thus, the

number of policy options should be limited to a relatively small set of policy options in order to keep the MCA manageable.

The following table provides the illustrative permutation matrix based on the outranking matrix above.

Table 4 – Illustrative outranking grid

#	Permutation	Policy Pairing	Coefficients from outranking matrix	Final Score	Rank
1	PO1 / PO2 / PO3	PO1:PO2 + PO1:PO3 + PO2:PO3	11 + 9 + 5	25	2
2	PO2 / PO3 / PO1	PO1:PO3 + PO3:PO2 + PO1:PO2	9 + 8 + 11	28	1
3	PO3 / PO1 / PO2	PO2:PO1 + PO1:PO3 + PO2:PO3	2 + 9 + 5	16	4
4	PO1 / PO3 / PO2	PO2:PO3 + PO3:PO1 + PO3:PO2	5 + 2 + 8	15	*6
5	PO2 / PO1 / PO3	PO3:PO1 + PO1:PO2 + PO3:PO2	2 + 11 + 8	21	3
6	PO3 / PO2 / PO1	PO3:PO2 + PO3:PO1 + PO2:PO3	8 + 2 + 5	15	*6

Source: Author's elaboration, based on the Better Regulation Guidelines

The permutation table shows that permutation #2 is the most advantageous. This means that, based on the assessment, PO2 should be implemented. If this is not possible, e.g. due to political reasons, PO3 should be implemented. If this is not possible, then PO1 should be implemented.

2.2 Elaboration of the preferred policy option

There are in principle two alternative options for the structure and the assessment of the policy options:

- *Option 1:* Each policy (sub-) option is assessed separately against the baseline scenario. This may result in a wide variety of distinct sub-options having to be assessed individually.
- *Option 2:* Various policy (sub-) options are clustered together to a limited number of policy packages that are being assessed as a whole against the baseline scenario. This may result in a rather limited number of more comprehensive assessments.

In this study, it was agreed with the European Commission in view of the limited timeframe available for the further study process to implement option 2.

Depending on the approach decided together with the Commission, the elaboration of the preferred policy option entailed, as much as needed, re-clustering, finetuning and elaborating the identified packages in view of maximising the policy packages' value vis-à-vis the baseline scenario.

The following was subsequently provided for the preferred option:

- An intervention logic / causal model, describing the logical links and connections between the core problems/underlying causes, the policy option itself, as well as the general and specific objectives
- A detailed justification of the selection and description of the main advantages/disadvantages (including any anticipated disproportionate effect or unintended consequence);
- An as detailed as possible description of the estimated costs and benefits, broken down as far as possible according to each identifiable action / obligation of the preferred option;
- An analysis of the conformity with the principles of subsidiarity and proportionality;
- The identification of critical success factors and any accompanying measures to maximise positive impacts and/or minimise negative impacts and ensure that Fundamental Rights are protected.

Moreover, a set of core indicators and related arrangements for monitoring and evaluating the implementation of the preferred policy option were identified.

The first step to design the monitoring and evaluation framework was the identification of operational objectives (expressed in terms of direct results and outputs) of the preferred policy option. Once set operational objectives, the complete list of core indicators was laid down, focusing on the following main categories:

- Implementation ("outputs"): Indicators aimed at monitoring the deliverables that need to be generated in order to achieve its objective(s);
- Application ("results and impacts"): Indicators aimed at monitoring the concrete impacts of the intervention.

Finally, a broad outline of possible monitoring and evaluation arrangements was provided based on the following elements:

- Identification of relevant monitoring and evaluation clauses to be included in the legislative proposal (if applicable to the preferred option);
- Allocation of responsibilities and definition of data collection system (e.g. Commission, national law enforcement authorities, etc.);
- Identification of the most relevant and reliable sources from which to retrieve data on the selected indicators (e.g. national statistics agencies, etc.);
- Definition of a broad time scheduling for monitoring and evaluation activities.

3 POLICY OPTIONS IDENTIFIED IN THE STAKEHOLDER CONSULTATIONS

Table 5 – Policy options identified in the stakeholder consultations

Proposal number	Specific proposal	Source (Stakeholder, Country)	Problem/Driver		
			Information exchange	Public order	SOC
1. New / improved structures					
1.1	Establishment of an organisation coordinating police cooperation on EU level 24/7, since countries are currently not always present at the same time	Interview with EMPACT stakeholder	X		
1.2	The creation of an academic board to study common evaluation grades, vocabulary and concepts to improve cross-border threat assessment/risk analysis	Online survey, Open question, Member States LEAs, Specialised Analyt.		X	
1.3	Take into account effective networks of experts and not to undermine well-functioning systems	Online survey, Open question, Member States LEAs, Specialised Pub. Ord.	X		
2. Access to information					
2.1	Need of a common level of access of bank accounts, etc. for each MS ("All investigations should start by chasing the money")	Interview with EMPACT stakeholder	X		
2.2	Increase the willingness of law enforcement to exchange more information	Interview with EMPACT stakeholder	X		
2.3	Constant gathering of feedback from operational officials on the ground to improve operational collaboration	First technical workshop, outcomes of the breakout-sessions	X	X	
2.4	Police-to-police requests instead of other equally effective mechanisms (such as EUCARIS, ECRIS, VIS, etc.)	First technical workshop, outcomes of the breakout-sessions	X		
2.5	An important recent improvement is the alignment of the CCWP Action Plan with the EMPACT action plans which is expected to ensure consistency between the two timeframes. Further alignment is also needed to avoid duplication/overlaps between CAP an EMPACT with some LEAs dropping out from participating in both the action plans.	Scoping interviews	X		

Proposal number	Specific proposal	Source (Stakeholder, Country)	Problem/Driver		
			Information exchange	Public order	SOC
2.6	Interoperability and interconnection of database are relevant aspects allowing a better coordination among LEAs and to speed up information exchange. Now, however, there are a lot of databases that are not connected, and LEAs may lose precious time in using them. On this point (databases), there is a lot of potential.	Scoping interviews	X		
2.7	Clear indication of the criteria for the use of channels for information exchange and definition of the principle for which the requested Member State should reply through the same channel used for the request. In this regard, the selection of the right channels to use could be based on these three pillars: 1) the general rules and common working principles (what to use and under which circumstances – this point should be further clarified in the future); 2) the geographical criteria to choose a specific channel (in border region, there is custom-police cooperation which needs to be further integrated and selecting the most appropriate channel could be relevant); 3) the thematic criteria to choose a specific channel.	Scoping interviews	X		
2.8	Establish governance guidelines for current methods of proactive/preventative information exchange	Scoping interviews	X		
2.9	Interoperability of the working systems to improve information sharing	Survey Analysis, Open question, Data Protection Authorities	X		
2.10	Trying to avoid the duplication of channels in international cooperation to improve cross-border law enforcement cooperation between countries.	Survey Analysis, Open question, LEAs	X		
2.11	In order to improve access to and information exchange, the EU intervention shall ensure full interconnection and streamlining of available systems for the exchange of information, the overall consistency of the EU legal framework, and the full awareness and capacity of national law enforcement authorities. On a less extent,	First technical workshop, outcomes of the breakout-sessions	X		

Proposal number	Specific proposal	Source (Stakeholder, Country)	Problem/Driver		
			Information exchange	Public order	SOC
	it should also ensure the integration of modern requirements into fundamental rights and data protection rules				
3. Joint patrols / operations					
3.1	Potentially funding for joint patrols by ISF	First technical workshop, outcomes of the breakout-sessions	X		
4. Threat assessment/risk analysis					
4.1	The use of new technologies such as artificial intelligence and big data analysis to improve cross-border threat assessment/risk analysis	Online survey, Open question, Member States LEAs, Specialised Analyt.		X	
4.2	More joint analysis products with crosscutting fields to improve cross-border threat assessment/risk analysis	Online survey, Open question, Member States LEAs, Specialised Analyt.		X	
5. Investigative tools					
5.1	Provision of recommendations for the use of investigative tools, for example by Europol	Interview with EMPACT stakeholder			X
5.2	Controlled delivery (i.e. allowing suspicious shipments or cargo to leave, pass through or enter a jurisdiction with the knowledge and supervision of authorities) can be regarded to improve cross border cooperation	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs			X
5.3	Being on "Hot pursuit" can be regarded to improve cross border cooperation	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs			X
5.4	Audio surveillance (e.g. Phone tapping; VOIP; Listening devices) can be regarded to improve cross border cooperation	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs			X
5.5	Visual surveillance (e.g. Hidden video-surveillance devices; body-worn video devices ; CCTV) can be regarded to improve cross border cooperation	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs			X

Proposal number	Specific proposal	Source (Stakeholder, Country)	Problem/Driver		
			Information exchange	Public order	SOC
5.6	Tracking surveillance (e.g. GPS/transponders; mobile phones; radio-frequency identification devices (RFID); biometric info technology) can be regarded to improve cross border cooperation	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs			X
5.7	Data surveillance (e.g. computer/internet (spyware); mobile phones; keystroke monitoring) can be regarded to improve cross border cooperation	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs			X
5.8	Undercover operation can be regarded to improve cross border cooperation	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs			X
5.9	Use of informants from members of the public can be regarded to improve cross border cooperation	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs			X
5.10	Use of informants from victim of a crime can be regarded to improve cross border cooperation	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs			X
5.11	Use of informants from members of an Organised Crime Group (OCG) can be regarded to improve cross border cooperation	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs			X
5.12	Use of informants from other police officials can be regarded to improve cross border cooperation	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs			X
5.13	Witness protection can be regarded to improve cross border cooperation	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs			X
5.14	The use of tracking surveillance devices (e.g. GPS/transponders) need to be harmonised within the EU to enhance cross border cooperation.	Survey Analysis, Open question, LEAs			X
5.15	Clarify and standardise the level of seriousness that a crime should have in order to perform specific surveillance activities	First technical workshop, Summary			X
5.16	Extension of the scope of surveillance (e.g. need of including more crimes under the same framework – tobacco smuggling)	First technical workshop, outcomes of the breakout-sessions			X

Proposal number	Specific proposal	Source (Stakeholder, Country)	Problem/Driver		
			Information exchange	Public order	SOC
5.17	Variety of tools (e.g. controlled deliveries, surveillance, hot pursuits) need to be harmonised, and new tools as audio recording, GPS tracking should be taken into consideration)	First technical workshop, outcomes of the breakout-sessions			X
5.18	<i>Investigative tools:</i> - Controlled delivery - Hot pursuit - Witness protection - Surveillance - Covert operation - Use of informants <i>Other tools available nationally:</i> - Fake sale / transfer identified as a specific tool in some MS (elsewhere included in controlled delivery) - Automated criminal analysis - Authorisation of criminal activities				X
6. Training					
6.1	Development and implementation of common training strategies across the MS	First technical workshop, outcomes of the breakout-sessions	X		
6.2	Law enforcement needs to be well trained in order to use the latest technological developments and to deal with – for instance - encrypted messages used by criminals	Scoping interviews	X		
6.3	Another change or steps to be taken to improve cross-border law enforcement cooperation between countries are permanent joint service joint trainings	Online survey, open question for further details, Member States LEAs, PCCCs		X	
6.4	Permanent joint service joint trainings to improve cross-border law enforcement cooperation between countries.	Survey Analysis, Open question, LEAs		X	
6.5	Better education of officials to improve information sharing	Survey Analysis, Open question, Data Protection Authorities	X		

Proposal number	Specific proposal	Source (Stakeholder, Country)	Problem/Driver		
			Information exchange	Public order	SOC
6.6	To improve operational cooperation, information sharing and effective use of investigative tools, thorough professional training for practitioners and awareness-raising process among the judicial and law enforcement beneficiaries should be introduced	Survey Analysis, Open question, Judicial Authorities	X		X
6.7	Raising awareness on existing possibilities by police, prosecutors and customs to improve cross-border law enforcement cooperation between countries	Online survey, Open question, Member States LEAs, Customs	X	X	X
7. Other / mixed measures					
7.1	To improve cross-border law enforcement cooperation between countries simplification and harmonization of the regulatory framework is always welcome	Online survey, open question for further details, Member States LEAs, PCCCs	X	X	X
7.2	Types of safeguards that should be adopted are independent and impartial oversight of law enforcement activities.	Online survey, Open question, Member States LEAs, Specialised Pub. Ord.	X	X	X
7.3	Facilitate the functioning of the EU as a one-stop shop for consultations related to public order	Online survey, Open question, Member States LEAs, Specialised Pub. Ord.		X	
7.4	The standardization of procedures is very relevant to improve cross border cooperation.	Online survey, Open question for further details, Member States LEAs, NECs	X	X	X
7.5	Dedicated and effective solutions to tackle the current difficulties in transmitting the cooperation instruments, and exchange of evidence and information are online secured and dedicated platforms, thorough professional training for practitioners and awareness-raising process among the judicial and law enforcement beneficiaries.	Online survey, Open question, Member States Judicial Authorities, Judicial Authorities	X		
7.6	To improve operational cooperation, information sharing and effective use of investigative tools, dedicated and effective solutions to tackle the current difficulties in transmitting the	Survey Analysis, Open question, Judicial Authorities	X		

Proposal number	Specific proposal	Source (Stakeholder, Country)	Problem/Driver		
			Information exchange	Public order	SOC
	cooperation instruments, and exchange of evidence and information are needed				
7.7	To improve operational cooperation, information sharing and effective use of investigative tools, online secured and dedicated platforms should be improved	Survey Analysis, Open question, Judicial Authorities	X		X
7.8	The need of technological equipment is very relevant (interoperability)	Survey Analysis, Open question, LEAs		X	
7.9	Flexibility, speed, higher quality of the work, language and other trainings, common workflow, proper environment and relation to the end-user to improve cross-border law enforcement cooperation between countries.	Survey Analysis, Open question, LEAs			
7.10	Prohibition of publishing of the provided information and commitment to use the provided information for the investigation and prosecution only as safeguards to be adopted.	Survey Analysis, Open question, LEAs	X		
8. Streamline and develop the different EU legal texts and non-binding guidelines on police cooperation into one coherent consolidated legal text					
8.1	Harmonisation of operational issues in the Schengen Convention	Interview with EMPACT stakeholder		X	X
8.2	No need to create new rules or legal acts, only redesign the current ones, e.g. establishment of more complex mechanisms (like advancing SIENA)	Interview with EMPACT stakeholder	X		
8.3	Harmonisation of the definitions and procedures relating to investigative tools and improvement of the consistency of existing measures	First technical workshop, outcomes of the breakout-sessions			X
8.4	Long term solution would be to have one law enforcement cooperation code	First technical workshop, outcomes of the breakout-sessions	X	X	X

Proposal number	Specific proposal	Source (Stakeholder, Country)	Problem/Driver		
			Information exchange	Public order	SOC
8.5	Access to and exchange of information: Clarification of the definition of urgency/timeframe and simplification of forms used (issues specifically relate to the implementation of the SFD)	First technical workshop, outcomes of the breakout-sessions	X		
8.6	Need of a common legal framework (e.g. to understand police involvement, clarify the preferred channel of communication)	First technical workshop, outcomes of the breakout-sessions	X		
8.7	Merge all existing legal texts in the area of law enforcement, including e.g. the guidelines on SPOCs and PCCs and information exchange	Scoping interviews, DG HOME	X		
8.8	Clarify to which the extent Articles 39 (CISA) and 46 (CISA) are still applicable and how to use these articles in relation to SFD (while SFD is limited to the exchange of information and intelligence for the purpose of conducting criminal investigations or criminal intelligence operations, Art. 39. CISA refers to preventing and detecting criminal offences and Art. 46. CISA, which concerns the spontaneous exchange of information, refers to combating future crime and preventing offences against or threats to public policy and public security).	Scoping interviews, DG HOME	X		
8.9	For an improvement in cross-border law enforcement cooperation, consolidation, streamlining and clarification of the EU legal framework providing the basis for law enforcement cooperation can be seen as a contribution by the majority of interviewees	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs		X	X
8.10	For an improvement in cross-border law enforcement cooperation, modernisation of the EU legal framework providing the basis for law enforcement cooperation (e.g. by providing provisions to cover the use of recent technological developments) can be seen as a contribution by the majority of interviewees	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs	X	X	
8.11	For an improvement in cross-border law enforcement cooperation, the definition of minimum EU standards for organised crime investigations can be seen as a contribution by the majority of interviewees	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs			X

Proposal number	Specific proposal	Source (Stakeholder, Country)	Problem/Driver		
			Information exchange	Public order	SOC
8.12	For an improvement in cross-border law enforcement cooperation, the creation of a single set of rules for the same actions, whether carried out by the police or by customs authorities can be seen as a contribution by the majority of interviewees	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs		X	X
8.13	For an improvement in cross-border law enforcement cooperation, the design of new recommendations, guidelines and good practices for law enforcement cooperation can be seen as a contribution by the majority of interviewees	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs		X	X
8.14	For an improvement in cross-border law enforcement cooperation, setting up new operational initiatives for law enforcement cooperation can be seen as a contribution by the majority of interviewees	Online survey, closed question, Member States LEAs, SPOCs/ PCCCs		X	X
8.15	To improve cross-border law enforcement cooperation between countries, all EU states should maximally use the EU tools created and follow their agreed time limits.	Online survey, open question for further details, Member States LEAs, SPOCs	X		X
8.16	Consolidation, streamlining and clarification of the EU legal framework providing the basis for law enforcement cooperation can contribute to improving cross-border law enforcement cooperation between countries to a high extent	Survey Analysis, Closed question, LEAs		X	X
8.17	Definition of minimum EU standards for organised crime investigations can contribute to improving cross-border law enforcement cooperation between countries to a high extent	Survey Analysis, Closed question, LEAs		X	X
8.18	Modernisation of the EU legal framework providing the basis for law enforcement cooperation (e.g. by providing provisions to cover the use of recent technological developments) can contribute to improving cross-border law enforcement cooperation between countries to a high extent	Survey Analysis, Closed question, LEAs		X	X

Proposal number	Specific proposal	Source (Stakeholder, Country)	Problem/Driver		
			Information exchange	Public order	SOC
8.19	All EU states should maximally use the EU tools created and follow their agreed time limits to improve cross-border law enforcement cooperation between countries.	Survey Analysis, Open question, LEAs	X		X
8.20	From the customs point of view, in general on EU level Naples II Convention is effective instrument that ensures operative law enforcement cooperation as well as information exchange. Larger use of Naples II Convention is seen to be needed to achieve better results.	Survey Analysis, Open question, LEAs	X	X	
8.21	Applicable tools for practitioners should be defined by practitioners. Harmonization of procedures would also reduce legal uncertainties within the EU.	Survey Analysis, Open question, LEAs			X
8.22	A joint, standardized and harmonized legal framework at EU level is essential to improve cross border cooperation.	Survey Analysis, Open question, LEAs	X	X	X
8.23	Independent and impartial oversight of law enforcement activities as a safeguard to be adopted	Survey Analysis, Open question, LEAs	X	X	X
8.24	Legal provisions of the highest level (act) pertaining to the police and customs authorities, enabling the effective implementation and safeguarding the fundamental rights properly at the same time	Survey Analysis, Open question, LEAs	X	X	X
8.25	Less strict data protection legislation as a safeguard to be adopted	Survey Analysis, Open question, LEAs	X	X	X
8.26	National sovereignty, individual rights and liberties as safeguards to be adopted	Survey Analysis, Open question, LEAs	X	X	X
8.27	Streamlining of PRÜM Decision (specifically Art. 17) and legal provisions of CISA regarding cross-border and pan European operational action for public order and safety purposes	First technical workshop, summary ("Plenary discussion on the outcomes of the break-out sessions)		X	
8.28	Applicable tools for practitioners should also be defined by practitioners. Harmonization of procedures would also reduce legal uncertainties within the EU.	Online survey, open question for further details, Member States LEAs, Specialised Invest. Units	X		X

Proposal number	Specific proposal	Source (Stakeholder, Country)	Problem/Driver		
			Information exchange	Public order	SOC
8.29	Harmonisation of definitions and procedures would eliminate cross border cooperation issues.	Online survey, Open question for further details, Member States LEAs, Customs		X	X
8.30	To improving cross-border law enforcement cooperation between countries the need of technological equipment is very relevant (interoperability)	Online survey, Open question for further details, Member States LEAs, NECs		X	
8.31	In relation to the effectiveness of the procedural law landscape for law enforcement cooperation and the actions the EU should take, lesser need for more powers is seen, instead the need to better use those powers (willingness) must be improved	Survey Analysis, Open question, Judicial Authorities	X	X	X
8.32	EU action might bring law enforcement authorities in a country to get additional powers. Interviewees think to a moderate/ high extent that this requires additional safeguards to be adopted.	Survey Analysis, Closed question, Judicial Authorities	X	X	X
8.33	Creation of a single set of rules for the same actions, whether carried out by the police or by customs authorities can contribute to improving cross-border law enforcement cooperation between countries to a moderate extent	Survey Analysis, Closed question, LEAs			X
8.34	Design of new recommendations, guidelines and good practices for law enforcement cooperation can contribute to improving cross-border law enforcement cooperation between countries to a high extent	Survey Analysis, Closed question, LEAs	X	X	X
8.35	Setting up new operational initiatives for law enforcement cooperation can contribute to improving cross-border law enforcement cooperation between countries to a moderate extent	Survey Analysis, Closed question, LEAs	X	X	X
8.36	Common legal base for the work of PCCC	Survey Analysis, Open question, LEAs	X		
8.37	All disperse instruments to improve cross-border law enforcement should be refunded into one single entity in a holistic manner.	Survey Analysis, Open question, LEAs	X	X	X

Proposal number	Specific proposal	Source (Stakeholder, Country)	Problem/Driver		
			Information exchange	Public order	SOC
8.38	"Interrogation" should have a common definition or approach at the EU level.	Survey Analysis, Open question, LEAs			X
8.39	Extending the mandate to existing security mechanisms to new mandate as a safeguard to be adopted	Survey Analysis, Open question, LEAs		X	
8.40	Legislation should be clear in order to not give rise to more than one interpretation	Survey Analysis, Open question, LEAs	X	X	X
8.41	Need of a common legal framework (e.g. to understand customs involvement, clarify the preferred channel of communication)	First technical workshop, outcomes of the breakout-sessions	X		X
8.42	All customs should get access to SIENA (however, SIENA has specific requirements in terms of security which make things complicated for OLAF and customs)	Scoping interviews, OLAF	X		
9. Safeguards					
9.1	EU action might bring law enforcement authorities in your country to get additional powers. Additional safeguards are required to be adopted in a country to a moderate extent. The types of safeguards that should be adopted is less strict data protection legislation.	Online survey, closed question, Member States LEAs, PCCCs	X	X	X
9.2	The majority of interviewees think that only to a moderate extent are additional safeguards required be adopted in their country	Online survey, closed question, Member States LEAs, SPOCs	X	X	X
9.3	Types of safeguards that should be adopted are national sovereignty, individual rights and liberties.	Online survey, open question, Member States LEAs, NECs	X	X	X

Source: Author's own elaboration

4 LIST OF DISCARDED OPTIONS

In line with the *Better Regulation Guidelines*, a long list of policy options was prepared following the problem assessment, the assessment of the EU's right to act and the identification of relevant policy options, taking into account the evidence of specific problems, as well as good practices and suggestions by stakeholders (including those presented in the previous section).

The long list of options was subject to a screening in order to identify the most effective and viable sub-options, which were subsequently clustered into two comprehensive policy options (in addition to the status quo / baseline policy option).

The screening was based on effectiveness and feasibility criteria.

The findings of the assessment are presented in the table below. The sub-options that are of legislative nature are marked in **bold**.

Table 6 – List of discarded sub-options (measures / elements)

Identifier	Potential sub-options	Reason for discarding the sub-option
1. The access to and exchange of necessary information among law enforcement authorities is subject to legal, technical and structural challenges		
1.1 Law enforcement authorities face difficulties in interpreting and implementing relevant EU provisions		
The scope of application of some EU measures is unclear, including between (i) the SFD vs. CISA (i.e. preventative and/or repressive operations) and (ii) the SFD vs. the Naples II Convention (whether only police or also customs authorities can use both these measures)		
The distinction between law enforcement authorities entitled to use the SFD and the Naples II Convention (notably police vs. customs) has proved ambiguous, since the competencies vary between law enforcement agencies and countries.		
2	Provision of a definition of what competences the law enforcement authorities to which the new Law Enforcement Code is applicable need to have. The Naples II Convention would be repealed and the current scope of the SFP would apply also to customs. <i>Exemplary definition: The new Law Enforcement Code should apply to Police and all other law enforcement authorities authorised by national law to detect, prevent and investigate offences or criminal activities, to exercise authority and take coercive measures or to execute criminal penalties and to prevent threats to public security. In addition, the new Law Enforcement Code should apply to all Customs authorities primarily responsible for the supervision of the Union's international trade, thereby contributing to fair and open trade, to the implementation of the external aspects of the internal market, of the common trade policy and of the other common Union policies having a bearing on trade, and to overall supply chain security. Customs authorities shall put in place measures aimed, in particular, at the following:</i> <i>(a) protecting the financial interests of the Union and its Member States;</i> <i>(b) protecting the Union from unfair and illegal trade while supporting legitimate business activity;</i> <i>(c) ensuring the security and safety of the Union and its residents, and the protection of the environment, where appropriate in close cooperation with other authorities; and</i> <i>(d) maintaining a proper balance between customs controls and facilitation of legitimate trade.</i>	Evidence is not available to support the repeal of the Naples II Convention
It is not clear to which extent Articles 39 (CISA) and 46 (CISA) are still applicable and how to use these articles in relation to Article 12 of the SFD.		
3	New provision, following the definition of the SFD (Art. 12). Subsequent full repeal of Articles 39 (CISA) and 46 (CISA) and Article 12 SFD. <i>Definition in Article 12 of the SFD: [To be added]</i>	The problem addressed through this sub-option is addressed through sub-option no. 1, which is included in PO2 and PO3. This sub-option would only have been relevant if a completely new legislative instrument would have been developed, which is not the case (SFD will be amended).
The distinction between urgent and non-urgent cases provided for in the SFD and the SFD forms to be used (on a voluntary basis) for information exchange is unclear and (unnecessarily) complex		
The forms included in the SFD are time-consuming, labour intensive and not self-explanatory (both the form for the requesting MS and the requested MS). To be able complete the forms efficiently, LEAS need to know what information is available in other MS.		
5	Development and implementation of a functionality within SIENA that resembles Interpol's i24/7 channel, including (1) a hit/not threshold; and (2) in case of a hit, the possibility to request further information	Sub-option merged with option no. 46; discarded as an individual sub-option due to insufficient effectiveness as a measure on its own

9	Development of a "central LEA app" – linked, but not limited to SIENA – that is aligned with MS' national legislation regarding functionalities, access rights etc., which the MS would be free - but not required - to use. The app could provide functionalities such as contact details of and direct messaging to relevant counterparts in other MS, a search functionality for cross-border case requests, a Wiki and glossary, training content (see above), including access to good practices, a Q&A board / discussion forum	While there was clear appetite for such an app, the sub-option was discarded following the discussions in the 2 nd technical meeting in May 2021 due to a lack of political feasibility.
10	Introduction of a <u>requirement</u> to use a "central LEA app" (see non-legislative option), which: • Enables mobile access; • Facilitates direct information exchange; • Provides LEA Knowledge Management. In principle, the use of the app would be required in all situations referring to the preparation, implementation, and debriefing of cross-border law enforcement activities	While there was clear appetite for such an app, the sub-option was discarded following the discussions in the 2 nd technical meeting in May 2021 due to a lack of political feasibility.
The notions of "non-urgent cases" and "other cases" as defined in the SFD forms (annexed to the SFD) for requesting/requested countries are unclear		
11	Amendment of the two SFD forms for information exchange to remove the category "other cases"	Discarded due to inadequate expected effectiveness. The SFD forms are repealed under the retained policy options.
12	Amendment of the two SFD forms for information exchange to provide a definition of non-urgent cases	Discarded due to inadequate expected effectiveness. The SFD forms are repealed under the retained policy options.
13	Commission guidance on the definition of the term "non-urgent" cases, including the provision of examples of "non-urgent cases"	The term "other cases" will be removed as part of the retained policy options, as this is expected to lead to greater effectiveness, hence leaving no need to clarify non-urgent cases.
The respect for the principle of equivalent access is not always ensured, especially regarding urgent cases		
14	Commission Communication, addressing how to handle information requests. If the authorisation of a judicial authority is required for information requested by another Member State, then the requested law enforcement authority is encouraged to take on the responsibility to ask for this judicial authorization, instead of simply denying the provision of the data requested	Discarded due to inadequate expected effectiveness.
15	New provision, establishing that if the authorisation of a judicial authority is required for information requested by another Member State, then the requested law enforcement authority shall take on the responsibility to ask for this judicial authorization, instead of simply denying the provision of the data requested	Discarded due to inadequate expected effectiveness.
The respect for the principle of availability is not always ensured		
16	Commission Communication on how to fill in the SFD form request form. The MS will be encouraged that the request sets out the factual reasons to believe that the relevant information and intelligence is available in another MS and explain the purpose for which the information and intelligence is sought in another MS and the connection between the purpose and the person who is the subject of the information and intelligence in order to avoid "fishing" (by e.g. sending a request for a cross-border check with a copy to all MS)	Discarded due to inadequate expected effectiveness. The SFD forms are repealed under the retained policy options.

17	Amendment of the SFD request form (and, subsequently, the form in SIENA). The request shall set out factual reasons to believe that the relevant information and intelligence is available in another MS and explain the purpose for which the information and intelligence is sought in another MS and the connection between the purpose and the person who is the subject of the information and intelligence in order to avoid “fishing” (by e.g. sending a request for a cross-border check with a copy to all MS)	Discarded due to inadequate expected effectiveness. The SFD forms are repealed under the retained policy options. A similar sub-option has been retained, which does not make reference to the SFD form.
The choice of channel for information exchange lies with the Member States, leading to a duplication of requests in some cases		
n/a	n/a	n/a
1.2 Technical driver: Law enforcement authorities have insufficient knowledge of existing mechanisms, skill gaps and outdated IT infrastructure		
National LEAs have limited awareness and knowledge of relevant databases		
It is currently not clear to law enforcement officials what channels should be used for information exchange in what circumstances. Law enforcement officers thus spend a lot of (undue) time to understand what channels should be used in specific cases		
20	Commission Communication encouraging the MS to include training on the channels for information exchange in the basis police training and provide guidance on the channels via Intranet [Good practice from one MS: Guidelines regarding the channels for information exchange (accessible for staff members of the Integrated Police via the Intranet and is included in the basic police training).]	Discarded as an individual sub-option. Merged with sub-option 34.
22	New provision, establishing that the requested Member State should, in those cases when SIENA is not used, reply through the same channel as was used for the request	Discarded due to inadequate expected effectiveness. PO2 and PO3 include an element according to which SIENA is the preferred or default option, which is expected to achieve higher effectiveness.
Inadequate knowledge by national LEAs’ officers of how to use the platforms for law enforcement cooperation available to them		
25	Development and implementation of an awareness raising and training campaign within the EU law enforcement community, e.g. via CEPOL: • Web-based and printed leaflets, including workflows / flow charts; • Short guidance videos in which workflows are explained in illustrative fashion; • Training with mock versions of platforms • A dedicated law enforcement training app that makes content accessible	Discarded due to the expected lack of political feasibility of the training app.
There is limited availability of training for law enforcement staff involved in cross-border information exchanges and cooperation		
Current training is not held on a regular basis and does not take into account the latest changes in the EU law enforcement legislative framework		
n/a	n/a	n/a
The available training is often (only) voluntary		
29	New requirement for the MS to provide a minimum number of hours of training on cross-border law enforcement aspects for officers annually	Discarded, as this would not be limited to those involved in cross-border cases and would be too far-reaching in view of the problems identified.
30	Commission Communication encouraging the MS to establish schemes that provide (non-monetary) incentives for officers to participate in relevant training, e.g.: • Career development; • Gaining expertise and experience;	Discarded due to the expected lack of political feasibility in combination with low effectiveness

	• Development of specialist roles; • Professional networking and connections.	
No specific training is foreseen for newcomers in the International Police Cooperation departments, including in the PCCCs and the SPOCs		
34	New provision, establishing that the MS shall systemically provide an induction on cross-border law enforcement for newcomers. <i>[Good practice from one MS: Common training approach for all police cadets with a view to improve the implementation of existing bilateral agreements, joint curricula in professional English, bilateral cooperation and cross-border regional cooperation, two pilot trainings in border regions or joint trainings/exercises on joint patrols, cross-border surveillance or hot pursuits]</i>	Discarded, as this would not be limited to those involved in cross-border cases, as it covers all newcomers. Sub-option 34 is determined to respect subsidiarity, while equally addressing the problems.
Language barriers hamper the cross-border exchange of information		
National LEA staff dealing with international matters often report information in “rusty” English		
36	Enhanced provision of English language training addressed at law enforcement officers by CEPOL.	Discarded, as this would not be limited to those involved in cross-border cases and would be too far-reaching in view of the problems identified.
The use of use of rudimentary search tools hampers the adoption of transliteration and “fuzzy logic” search		
The lack of transliteration and fuzzy logic search options in national databases prevents officers to get a full picture about the person they are looking for in the systems through a unique query. This leads to an increased workload which slows down the search process		
40	Commission Communication encouraging the MS to establish of a law enforcement algorithm in national databases / a search engine that enables displaying search results that are similar to what is being queried (proxy results)	Discarded, as this would not be limited to cross-border cases and would be too far-reaching in view of the problems identified.
41	New provision, establishing that the MS shall establish of a law enforcement algorithm in national databases / a search engine that enables displaying search results that are similar to what is being queried (proxy results)	Discarded, as this would not be limited to cross-border cases and would be too far-reaching in view of the problems identified and not respect the principle of subsidiarity.
Law enforcement officers on the ground do not always use secure communication means		
n/a	n/a	n/a
1.3 Structural driver: National and regional information hubs set up by law enforcement authorities have different roles, means and capabilities which make their cooperation sub-optimal		
SPOCs/PCCCs do not always play their coordination role and lack resources to face the increasing number of requests		
Existing manuals do not provide clear indications of how SPOCs shall be structured and organised.		
44	Mapping of the different types of law enforcement agencies involved in the national SPOCs (to be shared with other countries) and sharing of national good practices and concrete examples on the types of competences a SPOC should have, as well as tools concerning the establishment and efficient use of a SPOC, provided online	Discarded due to inadequate expected effectiveness. This sub-option would not adequately solve the identified problems
n/a	n/a	n/a
The functioning of the SPOCs, e.g. to promptly respond to the information requests received, is limited		
n/a	n/a	n/a

SPOCs/PCCCs are not always equipped with the necessary information management tools (e.g. a case management system with common dashboard and automatic/semi-automatic data upload and cross-check)		
Lack of interconnectivity between the PCCC and SPOC information systems		
n/a	n/a	n/a
Lack of an efficient case management system		
n/a	n/a	n/a
National law enforcement databases are not connected with each other (e.g. due to technical interoperability)		
51	Commission Communication encouraging the MS to interconnect national law enforcement databases	Discarded, as this would not be limited to cross-border cases and would be too far-reaching in view of the problems identified and not respect the principle of subsidiarity.
Information from (i) different units within the SPOCs and (ii) from the PCCCs (and equivalent structures at the border area) is not always integrated in the SPOC information management system		
Information from (i) different units within the SPOCs and (ii) from the PCCCs (and equivalent structures at the border area) is not always integrated in the SPOC information management system		
n/a	n/a	n/a
Direct and user-friendly access to all relevant EU and international databases and platforms is not the norm in the SPOCs and the PCCCs		
SPOCs and PCCCs lack access to all relevant EU and international databases and platforms		
	[Covered above in sub-options 43 and 44]	
The specific national stakeholders entitled to access and use EU and international databases and platforms vary between the Member States		
In some countries regional and local law enforcement authorities (especially customs) cannot access EIS, SIS, SIENA, VIS, Interpol's databases and other international law enforcement information exchange channels directly, due to its centralised access rights on national level		
54	Commission Communication encouraging the MS to ensure that also regional and local law enforcement authorities, including customs, have access to EIS, SIS, SIENA, VIS and Interpol's databases	Discarded due to inadequate expected efficiency and political feasibility to be adequately implemented voluntarily by the Member States.
2. The growing intra-EU mobility is not met with an adequate development of tailored joint operations		
2.1 Legal driver: There is a limited and at times asymmetric conferral of executive powers of law enforcement officers operating in the respective host States, as well as limited awareness of these powers on the ground		
There is a limited and at times asymmetric conferral of executive powers of law enforcement officers operating in the respective host States, as well as limited awareness of these powers on the ground		
Pursuant Art. 17 (2) of Council Decision 2008/615 police officers do not have operational powers in another Member State unless such possibility is conferred by the host Member State to the seconding officers involved in joint operations. This results in that foreign officers are in practice more of an accompanying than an operational colleague and leads to costs that are hardly justifiable		

56	New provision, requiring the host MS to confer certain operational powers to officers of seconding MS that are involved in joint operations. Exceptions may be defined. <i>See, for instance, Council Decision 2008/617/JHA Article 3.2 and 3.3:</i> <i>Subject to agreement between the Member States concerned, assistance may consist of providing the requesting Member State with equipment and/or expertise and/or of carrying out actions on the territory of that Member State, using weapons if so required.</i> <i>In the case of actions on the territory of the requesting Member State, officers of the assisting special intervention unit shall be authorised to operate in a supporting capacity on the territory of the requesting Member State and take all necessary measures to provide the requested assistance in so far as they operate under the responsibility, authority and direction of the requesting Member State and in accordance with the law of the requesting Member State</i>	Discarded, as the option is too far-reaching, since it does not include any reference for the LEAs to operate within the limits of their powers under their national law.
2.2 Technical driver: Officers on the ground have limited remote access to relevant law enforcement databases		
Officers on the ground have limited remote access to relevant law enforcement databases		
Information and communication tools currently used at the national level do not ensure that information collected and stored by law enforcement forces is readily accessible by officers on the ground		
58	Commission Communication, encouraging the MS to provide officers on the ground remote access to specified police databases via mobile terminals	Discarded due to a lack of political feasibility, since adequate boundaries for the access to data are not defined.
2.3 Structural driver: National law enforcement authorities have limited financial and human resources to expand the use of joint operations		
National law enforcement authorities have limited financial and human resources to expand the use of joint operations		
n/a	n/a	n/a
2.4 Cooperation between law enforcement authorities in different countries, e.g. for the purpose of joint operations notably in border regions, is insufficiently informed by joint threat assessment/risk analysis		
National specialised analytical departments rarely cooperate with similar departments in other countries to design actionable joint cross-border threat assessments/risk analysis		
Risk analysis is produced separately by the different LEAs. This undermines the development of joint threat assessment and risk analysis, and negatively affects the possibility of planning and performing joint operations		
62	New provision, requiring the MS to share risk analyses with Europol as a central hub that could, if appropriate and needed, dispatch relevant information to other concerned MS, taking relevant security precautions.	Discarded due to a lack of political feasibility.
64	New provision, obliging the MS to share specific data with neighbouring MS to develop and use cross border threat assessment to better assess the need for joint operations and better inform their planning.	Discarded due to a lack of political feasibility.
Inefficiencies in producing the national threat picture, as not all information that is available to LEAs is being shared, which affects the ultimate effectiveness of the national response put in place to address the identified threats		
67	Commission Communication encouraging the MS to: (1) Conduct an analysis of which LEAs would need to have access to what data from other MS, also considering the respective security levels and channels through which the data can be distributed; and (2) Share data with relevant LEAs from other MS based on the conducted analysis	Discarded due to a lack of political feasibility and inadequate effectiveness.
There is limited integration of police and customs information and analysis		

The EU threat assessment performed by Europol does not fully reflect the customs priorities and it is therefore not fully relevant to the needs of the different types of law enforcement communities. Data collection tools (questionnaire and manual) for the EU SOCTA are not well suited to collect information from customs		
n/a	n/a	n/a
3.1 Legal driver: Law enforcement authorities are not able to efficiently use investigative tools in a cross-border context and face obstacles caused by differences in national rules		
EU legal provisions on cross-border hot-pursuit and surveillance do not meet law		
Hot pursuits and surveillance: The definitions included in Articles 40-41 CISA, Articles 20-21 Naples II and Article 28 of the Directive 2014/41/EU have a too narrow scope as they only cover land borders, thus preventing the use of cross-border hot pursuits and surveillance by countries having only sea borders		
70	Extension of the current legal provisions to also cover the use of cross-border (i) hot pursuits and (ii) surveillance in relation to sea borders: (a) Replacing Articles 40 and 41 CISA (b) Replacing Articles 20 and 21 of the Naples II Convention (c) Replacing Article 28 of the Directive 2014/41/EU regarding the European Investigation Order in criminal matters <i>[Good practice from one MS: Bilateral agreements are in force with all neighbouring Schengen countries, which allows cross-border hot pursuits in the territory of Country X without any time or distance limits. They may be carried out by land, water or air]</i>	Discarded, as waterways are not covered and the effectiveness would thus not be achieved to its full potential. The retained sub-option also refers to waterways.
72	Extension of the current legal provisions to also cover the use of cross-border (i) hot pursuits and (ii) surveillance in relation to sea and air borders: (a) Replacing Articles 40 and 41 CISA (b) Replacing Articles 20 and 21 of the Naples II Convention (c) Replacing Article 28 of the Directive 2014/41/EU regarding the European Investigation Order in criminal matters <i>[Good practice from one MS: Bilateral agreements are in force with all neighbouring Schengen countries, which allows cross-border hot pursuits in the territory of Country X without any time or distance limits. They may be carried out by land, water or air]</i>	Discarded, as waterways are not covered and the effectiveness would thus not be achieved to its full potential. The retained sub-option also refers to waterways.
Hot pursuits and surveillance: The list of offences included in Articles 40-41 CISA that allow for a cross-border hot pursuit and surveillance is limited		
73	Commission Communication, encouraging the MS to allow cross-border hot pursuits and surveillance in their own territory in relation to specified additional offences to those provided for in Articles 40-41 CISA, and to establish this e.g. in bi-/ tri-/ or multilateral agreements with other MS. The list would be supported by minimum custodial thresholds, which would need to be met before the tool can be used to investigate such offences. <i>Exemplary definition: In addition to the offences included in Articles 40-41 CISA, the extended list could cover the following offences:</i> <i>Hot pursuit:</i> • Extraditable offence; • Fleeing custody; • Crime under the European Arrest Warrant <i>Surveillance:</i> • Extraditable offence; • Fleeing custody; • Crimes for which the European Investigation order is required	Discarded, due to a lack of feasibility, since no reference to minimum custodial thresholds, which would need to be met before the tool can be used, are made.

Authorisations for investigative tools: It is not clear what authorisations are needed in the MS to be able to use different investigative tools		
n/a	n/a	n/a
Surveillance: The definitions of "pre-planned" and "urgent" surveillance vary between the relevant legislative provisions on EU level, including Article 40 CISA, Article 21 Naples II Convention, Article 28 of the Directive 2014/41/EU regarding the European Investigation Order in criminal matters		
77	Commission Communication, providing clarification on the understanding of the definitions of "pre-planned" and "urgent" surveillance in the relevant legislative provisions on EU level, including Article 40 CISA, Article 21 Naples II Convention, Article 28 of the Directive 2014/41/EU regarding the European Investigation Order in criminal matters	Discarded due to the expected inadequate effectiveness.
The vast number of bi/tri/multilateral agreements creates a complex web of different rules and standards to be followed by law enforcement authorities		
79	Commission Communication, encouraging the Member States to review the existing agreements and update them as relevant to take into account new developments. <i>[For specific issues, refer to the related drivers]</i>	Discarded due to the expected take-up by the Member States and inadequate effectiveness.
National rules for cross-border controlled deliveries, surveillance and hot pursuit are not consistent across the Member States, hampering their efficient use in a cross-border context		
Controlled delivery: Significant differences in the national authorisation processes for controlled delivery hampers effective cross-border investigations		
80	Provision of an overview of in what cases authorisations are needed by what authorities in the MS in a user-friendly format online (access may be restricted)	Discarded due to the expected inadequate effectiveness.
81	Commission Communication, encouraging the national authorities to allow to forward directly a request for authorisation to the competent national authority, in case the national authority first contact does not have competence to act, in the case of controlled delivery	Discarded due to the expected take-up by the Member States and inadequate effectiveness.
Surveillance: Significant variation in the maximum time allowed to carry out surveillance activities. In countries where this period is comparatively shorter, the related timeframe could be insufficient to get evidence about a criminal activity or organisation		
83	Commission Communication encouraging the MS to adopt a common maximum time (at least referring to what this time should be as a minimum) allowed to carry out cross-border surveillance activities <i>[Exemplary definition to be provided]</i>	Discarded due to the expected take-up by the Member States and inadequate effectiveness.
86	Provision of an overview and comparison of national rules for implanting audio-surveillance, provided in a user-friendly format online (access may be restricted)	Discarded due to the expected inadequate effectiveness.
Surveillance: The use of tracking surveillance, notably audio recording, voice bugging and GPS tracking, is differently handled by the MS		
88	Commission Communication encouraging the MS to establish a national legislative framework for the implementation of audio recording, voice bugging and GPS tracking. The Communication will provide concrete suggestions for what should be included in the national frameworks, in order to avoid the adoption of heterogenous approaches that hamper cross-border collaboration	Discarded due to the expected take-up by the Member States and inadequate effectiveness.
Surveillance: The current differences in the types of institutions responsible to oversee the cross-border implementation of investigative tools creates obstacles to cooperation		
90	Provision of an overview of the specific institutions responsible to oversee the cross-border implementation of investigative tools by MS (to be provided by the MS), provided in a user-friendly format online (access may be restricted)	Discarded due to the expected inadequate effectiveness.
Surveillance: Different national rules for interception of conversations		

92	Procurement of a study by the Commission to examine and compare the situation in the MS, as well as sharing of good practices on criteria for conducting an interception of conversations, including e.g.: • Preventative vs. in reaction to a crime already committed; • Suspicious facts vs. suspected case; • Scope of the group of persons intercepted (actual suspect vs. contact persons / family members) The information could be provided in user-friendly format online (access could be restricted)	Discarded due to the expected inadequate effectiveness.
Hot pursuit: National territorial and time restrictions		
94	Commission Communication encouraging the MS to adopt a common maximum time (at least referring to what this time should be as a minimum) allowed to carry out cross-border hot pursuits [<i>Exemplary definition to be provided</i>]	Discarded due to the expected low take-up by the Member States and inadequate effectiveness.
97	Commission Communication to broaden territorial limitations for cross-border hot pursuits based on good practices from the MS, to e.g.: • Permit the requesting party the right to continue the hot pursuit if the requested party cannot take over the pursuit in time at a minimum; and / or • Give permission for hot pursuit beyond extraditable offences if someone avoids police or border checks without any time and territorial restrictions; and / or • Approve surveillance requests for the entire territory, rather than just the border region, even though the agreements themselves are limited to the border region [<i>Good practice from one MS: Bilateral agreements in force with neighbouring Schengen countries allow cross-border hot pursuits in the territory of Country X without any time and territorial restrictions and give permission for hot pursuit beyond extraditable offences if someone avoids police or border checks.</i> <i>Good practice: Permit the requesting party the right to continue the hot pursuit if the requested party cannot take over the pursuit in time (multiple MS)</i>]	Discarded due to the expected low take-up by the Member States and inadequate effectiveness.
Hot pursuit: Some MS and SAC do not define hot pursuit in their national laws or procedural criminal codes, and refer directly to CISA. Even though the use of the CISA as the legal basis ensure a certain degree of harmonisation, multilateral agreements often add a number of more specific and operational rules for the implementation of the tool in the different regional contexts, leading to a patchwork of legal provisions, which causes operational uncertainties		
100	Commission Communication, encouraging the MS to adopt a specified definition of hot pursuit that goes beyond the definition in CISA, based on good practices from the MS [<i>Exemplary definition to be provided</i>]	Discarded due to the expected low take-up by the Member States and inadequate effectiveness.
Hot pursuit: Differences in the right granted by national law to foreign officers to arrest/apprehend a suspect. Depending on the reciprocity principle different rules may be applied by the same country vis-à-vis different other countries.		
102	Procurement of a study by the Commission to prepare an overview by MS, of the legal ground, rights and duties of the pursuing officers, provided in a user-friendly format online (access may be restricted)	Discarded due to the expected inadequate effectiveness.

Source: Author's own elaboration

5 INTERVENTION LOGIC (LINK BETWEEN PROBLEMS, DRIVERS, OBJECTIVES, AND POLICY OPTIONS)

Table 7 – Comprehensive intervention logic

No.	Problem	Drivers / Causes	Operational objectives	Policy options (PO)
Specific objective 1: To ensure the efficient access to and exchange of necessary information among law enforcement authorities in an intra-EU context				
1.1	Legal barrier: Law enforcement authorities face difficulties in interpreting and implementing relevant EU provisions on access to and exchange of information. Moreover, the national rules on access to information impose procedural and administrative obstacles that prevent law enforcement authorities from other Member States from receiving such information in an effective and efficient way	- The scope of application of some EU measures is unclear, including between (i) the SFD vs. CISA (i.e. preventive and/or repressive operations) and (ii) the SFD vs. the Naples II Convention (whether only police or also customs authorities can use both these measures) - There is no requirement to ensure that a common minimum set of data is made available for exchange - Deadlines are usually not met when a judicial authorisation is required to deliver the requested information. There is no obligation to have a judicial authority available 24/7 within the Single Points of Contact, thereby slowing down the judicial authorisation process where needed. - The distinction between “non-urgent” and “other” cases provided for in the SFD and the SFD forms to be used (on a voluntary basis) for information exchange is unclear and (unnecessarily) complex	To ensure clarity on the information available to be exchanged between Member States and that the available information is exchanged within the set deadlines, while fully respecting fundamental rights, including data protection and privacy	PO 1: Status Quo <i>No change to the current policy measures:</i> The current uncertainties and differences with regard to the applicable legislation and differences between the Member States would remain, there would continue to be unclarity on what data are available in different Member States and deadlines would continue to not be systematically met. Moreover, Member States are expected to continue to send requests to multiple countries at the same time via parallel channels to “fish” for information, leading to duplication of work. PO 2: Legal proposal on minimum standards + supporting (soft) measures <i>Clarification of the scope of the SFD:</i> Clarification of the types of operations to which the SFD applies and definition of the competences LEAs need to have for its application <i>Establishment of a common minimum set of data that has to be made available for exchange. The common minimum set could encompass e.g. the data that is available in at 10 Member States / SAC:</i> - Wanted/missing persons - Persons suspected of criminal activities (criminal intelligence) - Stolen goods - Database of firearms - Photographs (persons) - Persons suspected of (a specific) crime - Persons convicted of crime (criminal records) - Passports and identity documents - Border controls, border crossings and other border guard matters - Reports (complaints) concerning crimes committed <i>New provisions ensuring compliance with deadlines by which data are to be made available to another Member State</i> (including when a judicial authorisation is required). <i>New provision, requiring the Member States to set out in the request for information the factual reasons to believe that the relevant information and intelligence is available in another Member State, and explain the purpose for which the information and intelligence is sought in another Member State and the connection between the purpose and the person who is the subject of the information and intelligence in order to avoid “fishing”</i> (by e.g. sending a request for a cross-border check with a copy to all MS) <i>Establishment of the information channel to be used:</i> Establishment of SIENA as the preferred channel of communication for information exchange in an intra-EU context. Interpol i24/7 should be used in cases where third countries are involved in the exchange of information and if third countries do not concluded a cooperation agreement with Europol and do not have access to

No.	Problem	Drivers / Causes	Operational objectives	Policy options (PO)
		The Swedish Framework Decision is not aligned with the 2016 Law Enforcement Data Protection Directive		SIENA. SIENA would need to be monitored 24/7. There would also be an obligation to put Europol in copy when in cases within Europol's mandate. The following non-legislative improvements to SIENA would also be made: - Establishment of new, simpler and more user-friendly forms (e.g. design and accessibility, types of information required and clarifications and wording, multiple-choice alternatives, removal of references to "other cases") and implementation of these in SIENA. The forms should include factual reasons for the information request. - Extension of the functionalities of SIENA, such as the introduction of (i) An automated display of a hit/not threshold (plus possibility to request further information) <i>Adaptations to the SFD to remove references to "other" cases and the forms for information exchange:</i> Removal of the reference to "other" cases in the SFD and removal of the two annexes on information exchange. <i>Adaptations to the SFD to ensure alignment with the Law Enforcement Data Protection Directive,</i> notably Article 8 on data protection. <i>Flanking non-legislative measures:</i> Training, updated guidance (e.g. on SIENA), provision of a matrix concerning which information channel should be used in what cases, provision of information concerning what data are available in the MS (beyond the minimum required set). Internal Security Fund support for the SIENA roll-out. PO 3: Legal proposal aiming for stronger alignment + supporting (soft) measures PO 3 would incorporate all of the measures in PO 2, but go beyond it in the following ways: - Establishment of SIENA as the default channel for information exchange between Member States (excluding those situations where other channels are required by EU law). <i>Establishment of a common minimum set of data that has to be made available for exchange. The common minimum set could encompass e.g. the data that is available in at 10 Member States / SAC:</i> - Administrative register on persons (census) - Database of prison inmates - Register on enterprises and commercial companies - Information concerning foreign nationals (decisions and permits, measures imposed, etc.) - Passports and identity documents Although this dataset also refers to the availability in 10 Member States, it is a different dataset compared to policy option 2. It is expected that the data set under policy option 3 is harder to access than the one under policy option 3 because the data is stored in databases that are managed by other authorities than the SPOC.
1.2	Technical barrier: Law enforcement authorities have outdated IT infrastructure.	SPOCs/PCCCs are not always equipped with the necessary information management tools (e.g. a case management system with common dashboard and	To ensure that the available information management tools allow an efficient monitoring of	PO 1: Status Quo <i>No change to the current policy measures.</i> Whilst it remains possible that the SPOCs and PCCCs will over time incrementally update and improve their information management systems, these developments would not be aligned between the Member States and the current barriers are expected to remain. The same is valid with regard to the use of secure communication means. PO 2: Legal proposal on minimum standards + supporting (soft) measures

No.	Problem	Drivers / Causes	Operational objectives	Policy options (PO)
		automatic/semi-automatic data upload and cross-check) - The use of rudimentary search tools hampers the adoption of transliteration and "fuzzy logic" search - Law enforcement officials on the ground do not always use secure communication means	cases and swift access to and exchange of data	<i>Establishment of common requirements for case management systems (CMS) for the SPOC:</i> - Clearly define the CMS, including whether according to the national legislation (a) CMS is a database or (b) a workflow system (incl. establishment of data retention requirements in line with GDPR, Interpol, SIRENE, etc.) - Provide a list of common requirements for functionalities of the CMS, e.g.: - Degrees of urgency should be linked with a deadline (e.g. when deadline draws near, alerts should be triggered) - Selection (in a multiple-choice list by the requesting MS) and cancellation of the degrees of urgency should be done manually - One CMS for receiving, sending and dispatching messages (follow up, manage, store and exploit the international exchange of information). Universal message format to be used - CMS should be able to import and export incoming messages from e-mail, documents or web applications to reduce the number of registration acts to the minimum. The same is valid for exportation of generated messages - Clear identification of the case and its components: Within the case (unique case number), all documents and acts should be clearly identified. The CMS should be able to make links about persons/objects; Per item – per act: author, date and time: this should be done automatically on the basis of the user profile. - Automation of data cross-check, e.g. through improved search tools and the adoption of transliteration and "fuzzy logic" search - Generation of proper statistics for national analytical needs and as required by EU law (e.g. SIS Regulation). - Accreditation of CMS (security needs, security check for data access, data protection, handling codes, confidentiality, access rights by different units and to EU databases) - Quality control: Through subject-based registration and the use of structured and mandatory fields and multiple-choice lists, certain quality requirements can be met beforehand without needing to conduct additional checks afterwards. - Availability of technical support <i>Secure communications:</i> Non-legislative measure: Feasibility study on how to improve the secure digital and radio communication between the Member States. Support to the work of the EU innovation hub and of the RECG (Radio-communication Expert Group – Sub-group of the LEWP) <i>Flanking non-legislative measures:</i> Training on CMS use, etc. PO 3: Legal proposal aiming for stronger alignment + supporting (soft) measures PO3 would incorporate all of the measures in PO 2, but go beyond it in the following ways: - One CMS to be used by both SPOCs and PCCCs, or, alternatively, a requirement to ensure interoperability between the CMSs of the SPOCs and PCCCs
1.3	Structural barrier:	SPOCs/PCCCs do not always play their	To ensure that national and	PO 1: Status Quo

No.	Problem	Drivers / Causes	Operational objectives	Policy options (PO)
	National and regional information hubs set up by law enforcement authorities have different roles, means and capabilities, which make their cooperation sub-optimal. Law enforcement authorities have insufficient knowledge of existing mechanisms and skill gaps.	coordination role and lack resources to face the increasing number of requests - Information from (i) different units within the SPOCs and (ii) from the PCCCs (and equivalent structures at the border area) is not always integrated in the SPOC information management system - Direct and user-friendly access to all relevant EU and international databases and platforms is not the norm in the SPOCs and the PCCCs - The specific national stakeholders entitled to access and use EU and international databases and platforms vary between the Member States - There is limited availability of training for law enforcement staff involved in cross-border information exchanges and cooperation - National LEAs have limited awareness and knowledge of relevant databases - The choice of channel for information exchange lies with the Member States, leading to a duplication of requests in some cases - Language barriers hamper the efficient	regional information hubs are available and can efficiently assist with the information exchange between MS, and that law enforcement officials who are primarily involved in cross-border cases have adequate skills and knowledge to perform their duties	<i>No change to the current policy measures.</i> The varied availability of competences of the SPOCs across the EU would remain, hampering the efficient exchange of information, notably due to that adequate access to key databases and platforms is not ensured in all SPOCs. Moreover, some SPOCs have insufficient resources to address the information requests received within the deadlines in all cases. There is also a need to further ensure that law enforcement authorities involved in intra-EU cross-border cases are better trained on recent developments and possess adequate language skills to communicate with their peers. PO 2: Legal proposal on minimum standards + supporting (soft) measures <i>Establishment of the SPOC as a "one stop shop" for LEA cooperation through common minimum standards. A SPOC should:</i> - Be set up through its own national legislative or regulation identity - Be, at the minimum, informed about all international law enforcement cooperation requests dealt with at national level, and, in addition, be established as the <i>preferred</i> hub to handle intra-EU law enforcement cooperation requests - Operate 24/7 (including having a judicial authority available 24/7 "within" the SPOC) - Have full access to EU and international law enforcement databases (i.e. SIS, Europol databases, Interpol databases and software applications such as EUCARIS) - Be connected to SIENA (for intra-EU cases & Member States), i24/7 (for cases involving third countries), SIS, the SIRENEmail network, and TESTA-NG. - Involve staff in the SPOC who have full access to all relevant national case management systems (including those managed by customs and border guards) - Ensure that all relevant information from the PCCCs is integrated in the SPOC information system - Have arrangements for indirect (e.g. on a hit/no hit basis), but quick, effective and efficient access to relevant databases of other authorities or bodies (including customs and border guards) - Have full computerized access to hotel registers, should the need arise (the Article 45 CISA) - Ensure further coordination between the SPOCs and the PCCCs and other relevant entities such as the national EMPACT coordination and the network of EMPACT actors <i>Establishment of new provisions on the skills of law enforcement officials working primarily on international cases:</i> - Provision on appropriate English skills as a criterion ("entry criterion") for specific roles within certain law enforcement agencies working primarily on international cases - Provision on mandatory training on EU law enforcement cooperation for officials in specific roles relevant for cross-border law enforcement and at specific levels (e.g. newcomers / senior officials) <i>Establishment of flanking soft measures in the form of training measures:</i> - Establishment of an awareness raising and training campaign within the EU law enforcement community - CEPOL to provide training material to law enforcement agencies e.g. on how to use EU databases efficiently. The training material should focus on aspects common to all the Member States. The

No.	Problem	Drivers / Causes	Operational objectives	Policy options (PO)
		cross-border exchange of information		Member States would need to prepare additional training on the specificities in the individual country. - CEPOL to provide voluntary induction training on cross-border law enforcement - Expansion of the existing CEPOL practice to provide online courses on an ad-hoc basis on new EU level developments - Performance of a regular review of the training content provided by CEPOL PO 3: Legal proposal aiming for stronger alignment + supporting (soft) measures PO3 would incorporate all of the measures in PO 2, but go beyond the common minimum standards and harmonise the rules on the SPOC in the following ways: • Instead of "being informed about" (as per PO 2), PO 3 would establish that the SPOC is <u>responsible</u> for all international law enforcement cooperation requests dealt with at national level • The same minimum requirements established above for the SPOCs should also be applicable to the PCCCs. • Establishment that the communication between the SPOCs should take place in English (unless another common language is used by both SPOCs involved) and that all officials involved in the SPOC would need to have an adequate command of English • Introduction of shorter intervals between the EU-STNA (e.g. reduction from 4 to 2 years)
Specific objective 2: To ensure that the growing intra-EU mobility is met with an adequate development of tailored joint operations				
2.1	Legal barrier: Law enforcement officials operating in other Member States often have inadequate powers to be able to provide efficient support. Moreover, these powers vary between the Member States, which leads to confusion	• There is a limited and at times asymmetric conferral of executive powers of law enforcement officials operating in the respective host States, as well as limited awareness of these powers on the ground.	To ensure clarity on the powers of law enforcement authorities operating in other countries and that they can provide adequate support	PO 1: Status Quo <i>No change to the current policy measures.</i> Law enforcement officials operating in other Member States would continue to face unclarity on their powers on the ground in the hosting Member State and in many cases <i>de facto</i> have limited powers to provide efficient support. PO 2: Legal proposal on minimum standards + supporting (soft) measures • <i>New provision on the conferral of powers:</i> The host MS should confer certain operational powers to officials of seconding MS that are involved in joint operations. Exceptions may be defined. See, for instance, Council Decision 2008/617/JHA Article 3.2 and 3.3: <i>Subject to agreement between the Member States concerned, assistance may consist of providing the requesting Member State with equipment and/or expertise and/or of carrying out actions on the territory of that Member State, using weapons if so required. In the case of actions on the territory of the requesting Member State, officials of the assisting special intervention unit shall be authorised to operate in a supporting capacity on the territory of the requesting Member State and take all necessary measures to provide the requested assistance in so far as they (i) operate under the responsibility, authority and direction of the requesting Member State and in accordance with the law of the requesting Member State; and (ii) operate within the limits of their powers under their national law.</i> • This should at minimum enable seconded officials to autonomously perform basic police tasks such as identity checks, vehicle and body search. This includes the running of identification data in relevant databases. • <i>Flanking non-legislative measures:</i> awareness raising and training... PO 3: Legal proposal aiming for stronger alignment + supporting (soft) measures

No.	Problem	Drivers / Causes	Operational objectives	Policy options (PO)
				PO3 would incorporate all of the measures in PO 2, but go beyond it in the following ways: The same text on the conferral of powers would be introduced, however, without any exceptions.
2.2	Technical barrier: Officials on the ground are not able to efficiently access the information they need to ensure public order and safety.	Officials on the ground have limited remote access to relevant law enforcement databases, notably in relation to specific types of international events	To ensure the prompt access to necessary data for law enforcement officials on the ground, notably in relation to specific types of international events	PO 1: Status Quo <i>No change to the current policy measures.</i> While some improvements may be made by individual Member States, officials on the ground are expected to continue to not be able to directly access the information they need in relation to international events in the majority of cases, and thus lose valuable time due to the need to obtain the information via a colleague in office, who acts as an intermediary. PO 2: Legal proposal on minimum standards + supporting (soft) measures <i>New provision on the remote access to relevant law enforcement databases in specific situations:</i> The Member States are to provide [their own] officials on the ground remote access to specified police databases (or even specified data within them) in relation to specific types of international events (large-scale international football matches, mass tourism and music events, protection of VIPs etc.) via mobile terminals in specific geographical areas, such as major cities or regions where large-scale events take place more frequently. Restrictions on the use of specific types of information by the officials on the ground, including what information may be shared with officials from other countries, would be defined. <i>Flanking non-legislative measures:</i> Training... PO 3: Legal proposal aiming for stronger alignment + supporting (soft) measures PO3 would incorporate all of the measures in PO 2, but go beyond it in the following ways: - No geographical restrictions on the access would be introduced. There would also be less restrictions on the use of the data obtained by the officials on the ground.
2.3	Structural barrier: National law enforcement authorities have limited financial and human resources to ensure an adequate use of joint operations.	Member States face challenges covering the following types of costs for joint operations: - Additional costs for Member States (on-top of the usual salary covered by the home Member States); - Travel costs; - Accommodation; - Expenses.	To ensure that adequate resources are available for the Member States to make full use of joint operations	PO 1: Status Quo <i>No change to the current policy measures.</i> Joint operations are expected to continue to be underused due to a lack of resources in the Member States. PO 2: Legal proposal on minimum standards + supporting (soft) measures <i>Establishment of an appropriate financial instrument by the Commission</i> (e.g. through the ISF) to contribute to the funding of joint patrols in terms of staff costs; travel costs; accommodation; and expenses. <i>Flanking non-legislative measures:</i> ... PO 3: Legal proposal aiming for stronger alignment + supporting (soft) measures PO3 would incorporate all of the measures in PO 2, but go beyond it in the following ways: - A higher budget would be allocated within the financial instrument compared to PO 2. In addition to the items funded under PO 2, PO 3 would also foresee additional budget to e.g. train staff on joint operations, and identify and share best practices. Budget would also be made available for technical means to facilitate training and knowledge sharing on the ground (e.g. a platform or an app that officials can quickly consult)
2.4	Structural barrier: Cooperation	National specialised analytical departments rarely cooperate with	To ensure that joint operations are	PO 1: Status Quo

No.	Problem	Drivers / Causes	Operational objectives	Policy options (PO)
	between law enforcement authorities in different countries, e.g. for the purpose of joint operations notably in border regions, is insufficiently informed by joint threat assessment/risk analysis.	similar departments in other countries to design actionable joint cross-border threat assessments/risk analysis There is limited integration of police and customs information and analysis	adequately informed by relevant threat assessments and risk analysis, and that also information from customs is adequately taken into account	<i>No change to the current policy measures.</i> The planning of joint operations would continue to suffer from a lack of joint cross-border threat assessments / risk analyses, and information from customs would also in the future not be adequately considered. PO 2: Legal proposal on minimum standards + supporting (soft) measures <i>New provision on cross-border threat assessment:</i> The Member States are to cooperate with neighbouring Member States to develop and use cross border threat assessment to better assess the need for joint operations and better inform their planning. <i>Flanking non-legislative measures:</i> - Perform a pilot project to identify approaches to improve the development and use of joint threat assessment and risk analysis - Development of data collection tools (questionnaire and manual) specifically for customs PO 3: Legal proposal aiming for stronger alignment + supporting (soft) measures PO3 would incorporate all of the measures in PO 2, but go beyond it in the following ways: - PO 3 would set out more specific obligations concerning the cooperation related to threat assessments with neighbouring Member States in view of joint operations, e.g. that this needs to be done on an annual basis. - PO 3 would also introduce a new provision, making it compulsory for the Member States to share threat assessment and risk analyses with other LEAs insofar as this does not constitute a security risk for the Member State concerned
Specific objective 3 : To ensure efficient cross-border operational cooperation in relation to SOC and terrorism				
3.1	Legal driver: Law enforcement authorities are not able to efficiently use investigative tools in a cross-border context and face obstacles caused by differences in national rules.	Rules concerning investigative tools vary between the Member States, notably in relation to: - Urgent need to address: Hot pursuit and surveillance (including interception of communication). - Moderate need to address: Controlled delivery and Covert investigations - Low need to address: Use of informants and witness protection	To ensure that law enforcement authorities are able to use investigative tools in an efficient way in intra-EU cross-border cases	PO 1: Status Quo <i>No change to the current policy measures.</i> The rules of different Member States concerning key investigative tools are expected to continue to vary, not only causing uncertainties, but operational obstacles to efficiently fight serious and organised crime and terrorism, as well as public order and safety PO 2: Legal proposal on minimum standards + supporting (soft) measures <i>New provisions on surveillance:</i> - Extend the current EU legal provisions to also cover the use of cross-border surveillance in relation to waterways, sea and air borders - Establish the possibility to start physical surveillance operations on the territory of another Member State - Simplify the legal requirements notably for a surveillance operation transiting by a Member State - Extend the list of offences in relation to which cross-border surveillance is allowed. In addition to the offences included in Articles 40-41 CISA, the extended list would cover the following offences: Extraditable offence (crimes for which the European Arrest Warrant is required); fleeing custody. - Streamline the definitions of "pre-planned" and "urgent" surveillance in the relevant legislative provisions on EU level

No.	Problem	Drivers / Causes	Operational objectives	Policy options (PO)
				- Ensure the possibility for technical means of surveillance (e.g. GPS tracker, drone) - Define a common maximum time allowed to carry out cross-border surveillance activities, e.g. specific time as smallest common denominator: 24 hours - Accept and cooperate with the institutions responsible to oversee cross-border implementation of investigative tools in other Member States • <i>New provisions on hot pursuit:</i> - Extend the current EU legal provisions to also cover the use of cross-border hot pursuit in relation to waterways, sea and air borders - Extension of offences in relation to which cross-border hot pursuit is allowed. In addition to the offences included in Articles 40-41 CISA, the extended list could cover the following offences: Extraditable offence (crimes under the European Arrest Warrant); fleeing custody; - Permit cross-border hot pursuit continue for at least an hour - Establish common rules for hot pursuit, e.g.: (i) Permit the requesting party the right to continue the hot pursuit if the requested party cannot take over the pursuit in time at a minimum; (ii) Permit hot pursuit beyond extraditable offences if someone avoids police or border checks without any time and territorial restrictions; Permit hot pursuit without any distance limit - Establish minimum standards on the rights and duties of the pursuing officials, including the right to: search a person; put on handcuffs; apprehend; detain; stop cars; perform preliminary arrest, if local authorities do not arrive on time - <i>Flanking non-legislative measures:</i> training and joint operation simulation exercises... PO 3: Legal proposal aiming for stronger alignment + supporting (soft) measures • <i>Surveillance:</i> - Establish the possibility to start physical and technical surveillance operations on the territory of another Member State - New provision, e.g. in the form of minimum standards, concerning the implementation of audio recording, voice bugging and GPS tracking. For example, new provisions establishing audio-surveillance / interception of communications as an investigative tool for all Member States, and defining a common set of rules/criteria for implanting audio-surveillance, covering e.g.: Preventative vs. in reaction to a crime already committed; Suspicious facts vs. suspected case; Scope of the group of persons to be monitored by audio-surveillance (actual suspect vs. contact persons / family members). - Extended definition of offences: In addition to the offences included in Articles 40-41 CISA, the extended list would cover the following offences: Murder; Manslaughter; Severe bodily harm; Severe sexual harassment and rape; Arson; Counterfeit currency; Grand theft; Blackmail; Abduction; Hostage taking; Deprivation of liberty; Trafficking in human beings; Drug-related crimes; Illegal arms trade; Explosions; Trade with poisonous, nuclear or radioactive substances; Hit and runs after accidents that caused severe injury or death; Terrorism; Sexual exploitation of children; Corruption; Seizure fraud; Money laundering; Cybercrimes; Environmental crimes; Smuggling; Racism and xenophobia; Illegal trade of cultural artefacts; Fraud; Counterfeit products; Forgery of documents; Abduction of means of transport; Sabotage; Being a member of a criminal organisation. The list would be supported

No.	Problem	Drivers / Causes	Operational objectives	Policy options (PO)
				by minimum custodial thresholds, which would need to be met before the tool can be used to investigate such offences. - Define a common maximum time allowed to carry out cross-border surveillance activities, e.g. specific time as smallest common denominator: 14 days - New provision, requiring the Member States to accept the involvement of and cooperation with the institutions responsible to oversee cross-border implementation of investigative tools from other Member States. A list of the specific institutions would be made available and kept up to date. • <i>Hot pursuit:</i> - Permit cross-border hot pursuit to continue without any time limit (compared to one hour under PO 2) - Introduction of common definitions of 'arrest', 'search', 'detain' 'interrogate' etc. • <i>Controlled delivery:</i> - Common minimum approximation of national rules to facilitate its use in a cross-border context • <i>Interception of communication:</i> - Common minimum approximation of national rules to facilitate its use in a cross-border context

Source: Author's own elaboration

6 ASSESSMENT OF COHERENCE FOR POLICY OPTION 2

The table below includes the elements of policy option 2, which constitutes a legal proposal on minimum standards that is flanked by supporting (soft) measures.

Table 8 – Coherence assessment for policy option 2

No.	Problem	Elements of the option	Coherence
Specific objective 1: To ensure the efficient access to and exchange of necessary information among law enforcement authorities in an intra-EU context			
1.1	Legal barrier: LEAs face difficulties in interpreting and implementing relevant EU provisions. Moreover, national rules impose obstacles for cross-border information exchange.	• <i>Clarification of the scope of the SFD:</i> Clarification of the types of operations to which the SFD applies and definition of the competences LEAs need to have for its application • <i>Establishment of a common minimum set of data that has to be made available for exchange. The common minimum set could encompass e.g. the data that is available in at 10 Member States / SAC:</i> - Wanted/missing persons - Persons suspected of criminal activities (criminal intelligence) - Stolen vehicles or stolen goods - Database of firearms - Photographs (persons) - Fingerprints - DNA - Persons suspected of (a specific) crime - Persons convicted of crime (criminal records) - Passports and identity documents - Border controls, border crossings and other border guard matters - Reports (complaints) concerning crimes committed • <i>New provisions ensuring compliance with deadlines by which data are to be made available to another Member State</i> (including when a judicial authorisation is required). • <i>New provision, requiring the Member States to set out in the request for information the factual reasons to believe that the relevant information and intelligence is available in another Member State, and explain the purpose for which the information and intelligence is sought in another Member State and the connection between the purpose and the person who is the subject of the</i>	• Clarification of the scope of the SFD: Coherent per definition – clarification of a document in itself does not have impacts on the external coherence. However, the internal coherence of the SFD of course needs to be ensured when clarifying/elaborating specific paragraphs • Establishment of a common minimum set of data: - A clear majority of bi-/tri/multilateral agreements identified provides a more or less clear definition of data to be exchanged under the agreement. The types of data provided under this measure are all mirrored in at least (often more) of the agreements analysed. However, for most agreements, the list of types of data to be exchanged would need to be amended based on this measure. - The coherence of the measure with bi-/tri/multilateral agreements varies based on the specific provisions of individual agreements. Most agreements already include this point, but the lists might need to be changed (to a different extent) - Regarding the types of information, different EU measures cover specific types of information, such as personal data, travel documents, information concerning and resulting from criminal investigations, terrorism offences, VISA data, road traffic data, firearm data, immigration data. These legislative instruments are often accompanied by non-binding measures aimed at providing recommendations related to their implementation. Some EU legislative measures introduced specific tools and information systems that can be used to exchange information between LEAs. Often, the use of specific tool is closely linked to the exchange of a specific type of data. Since there are already different EU measures covering the types of information to be exchanged, the establishment of a common minimum set of data to be exchanged under the SFD would serve as harmonisation of existing approaches. - However, the fact that there are numerous EU legal measures (both legislative and supporting soft measures) existing in this area might produce challenges regarding coherence. • New provisions ensuring compliance with deadlines: - Nine of the bi-/tri/multilateral agreements analysed already include a clear definition of “urgency” for cases as well as a deadline. The Nordic agreement refers to deadlines as stipulated in the Council Framework Decision 2006/960/RIF of 18 December 2006.

No.	Problem	Elements of the option	Coherence
Specific objective 1: To ensure the efficient access to and exchange of necessary information among law enforcement authorities in an intra-EU context			
		information and intelligence in order to avoid “fishing” (by e.g. sending a request for a cross-border check with a copy to all MS) • <i>Establishment of the information channel to be used:</i> Establishment of SIENA as the preferred channel of communication for information exchange in an intra-EU context. i24/7 should be used in cases where third countries are involved in the exchange of information. SIENA would need to be monitored 24/7. There would also be an obligation to put Europol in copy when in cases within Europol's mandate. The following non-legislative improvements to SIENA would also be made: - Establishment of new, simpler and more user-friendly forms (e.g. design and accessibility, types of information required and clarifications and wording, multiple-choice alternatives, removal of references to “other cases”) and implementation of these in SIENA. The forms should include factual reasons for the information request. - Extension of the functionalities of SIENA, such as the introduction of (i) An automated display of a hit/no hit indication (plus possibility to request further information) • <i>Adaptations to the SFD to remove references to “other” cases and the forms for information exchange:</i> Removal of the reference to “other” cases in the SFD and removal of the two annexes on information exchange. • <i>Adaptations to the SFD to ensure alignment with the Law Enforcement Data Protection Directive</i>, notably Article 8 on data protection. • <i>Flanking non-legislative measures:</i> Training, updated guidance (e.g. on SIENA), provision of a matrix concerning which information channel should be used in what cases, provision of information concerning what data are available in the MS (beyond the minimum required set). Internal Security Fund support for the SIENA roll-out.	- On EU level the SFD already defines a clear deadline for urgent cases as (8 hours) as well as for non-urgent cases (1 week). A provision ensuring compliance with these deadlines would only constitute a legal manifestation of already existing measures. It might therefore imply expenses for the MS, but from a coherence perspective there are no conflicts with other existing measures on EU level. • Establishment of the information channel to be used: - On EU level there are currently numerous channels for communication enshrined in various legal measures, such as SIENA, SIS II, VSI, EIS, CIS FIDE, NFIP, etc. The respective legal basis includes for example Council Framework Decision 2006/960/JHA, CISA (Art. 39), Council Document 10492/14, Regulation (EU) 2018/1860, Regulation (EU) 2018/1861, COM (2015) 624, etc. The establishment of SIENA as the preferred channel of communication might therefore force MS to replace processes on an operational level that have been established over the past decades. However, from a coherence perspective the term “preferred channel” does not imply the need for a repeal and/or mandatory adaption of existing legislation in this area, since it gives MS quiet some leeway to still justify why SIENA should not be used as preferred channel in specific cases. The definition of a preferred channel would rather be a legal add-on than a repeal of existing legislation. However, on an operational level, the impacts of this measures are considered to bigger, depending on the current use of SIENA by MS. - In addition to the EU measures in this field, there are also bilateral channels based on cooperation agreements at national, regional and local level between different stakeholder, such as PCCCs - In general, the landscape of communication channels on EU, national, regional and local level is very broad, implying challenges with regard to (not always legal) but at least operational coherence. • Adaptations to the SFD to remove references to “other” cases: No impact on coherence, neither internal nor external. • Adaptations to the SFD to ensure alignment with the Law Enforcement Data Protection Directive: Coherent per definition, since alignment with the relevant legislation (The Law Enforcement Data Protection Directive) is subject of this measure. • The flanking supporting measures are not considered to have any impact on the coherence of this option.
1.2	Technical barrier: LEAs have outdated	• <i>Establishment of common requirements for case management systems (CMS) for the SPOC:</i> - Clearly define the CMS, including whether according to the national legislation (a) CMS is a database or	• Establishment of common requirements for case management systems (CMS) for the SPOC: - There is currently no EU legal measure in place defining common requirements for case management systems of the SPOC.

No.	Problem	Elements of the option	Coherence
Specific objective 1: To ensure the efficient access to and exchange of necessary information among law enforcement authorities in an intra-EU context			
	IT infrastructure.	(b) a workflow system (incl. establishment of data retention requirements in line with GDPR, Interpol, SIRENE, etc.) - Provide a list of common requirements for functionalities of the CMS, e.g.: - o Degrees of urgency should be linked with a deadline (e.g. when deadline draws near, alerts should be triggered) - o Selection (in a multiple-choice list by the requesting MS) and cancellation of the degrees of urgency should be done manually - o One CMS for receiving, sending and dispatching messages (follow up, manage, store and exploit the international exchange of information). Universal message format to be used - o CMS should be able to import and export incoming messages from e-mail, documents or web applications to reduce the number of registration acts to the minimum. The same is valid for exportation of generated messages - o Clear identification of the case and its components: Within the case (unique case number), all documents and acts should be clearly identified. The CMS should be able to make links about persons/objects; Per item – per act: author, date and time: this should be done automatically on the basis of the user profile. - o Automation of data cross-check, e.g. through improved search tools and the adoption of transliteration and “fuzzy logic” search - Accreditation of CMS (security needs, security check for data access, data protection, handling codes, confidentiality, access rights by different units and to EU databases) - Quality control: Through subject-based registration and the use of structured and mandatory fields and multiple-choice lists, certain quality requirements can be met beforehand without needing to conduct additional checks afterwards.	- However, MS have developed different solutions for case management systems of SPOCs in the past. Depending on the structure and functionalities of the individual case management system, some of the requirements listed under this measure might be challenging to integrate (e.g. at the SPOC meeting in Riga 2019 the Maltese delegation underlined the challenge of integrating SIENA into their CMS solution). - The requirements listed in this measure are (partly) based on the outcomes of SPOC meeting in Riga 2019 as well as stakeholder statements during the field research. Therefore, they appear coherent with the needs of officials on the ground. - As a conclusion, there seem to be no conflicts with existing EU legislation or bi-/tri-/multilateral agreements for this measure. An establishment of common requirements would rather serve as a legislative manifestation of good practices and guidance already included in manuals and guidelines on EU/international level. However, since the setup of the SPOC (including the tools used) is often somehow legislated by national law, there might be some conflicts or at least need for adaption on the MS level. Taking into account that the measure proposed includes minimum requirements only and not a strict, holistic definition of structures, workflows and functionalities of a CMS, the measure can rather be defined as a supplement than a conflict for national regulation, certainly depending on the solution currently in place in the individual MS. • By definition, the performance of a feasibility study as a non-legislative measure would not have any impact on the criterion of coherence.

No.	Problem	Elements of the option	Coherence
Specific objective 1: To ensure the efficient access to and exchange of necessary information among law enforcement authorities in an intra-EU context			
		- Availability of technical support • <i>Secure communications</i>: Non-legislative measure: Feasibility study on how to improve the secure digital and radio communication between the Member States	
1.3	Structural barrier: National and regional information hubs set up by LEAs have different roles, means and capabilities, which make their cooperation sub-optimal. LEAs have insufficient knowledge of mechanisms and skill gaps.	• <i>Establishment of the SPOC as a "one stop shop" for LEA cooperation through common minimum standards. A SPOC should:</i> - Be set up through its own national legislative or regulation identity - Be, at the minimum, informed about all international law enforcement cooperation requests dealt with at national level, and, in addition, be established as the <i>preferred</i> hub to handle intra-EU law enforcement cooperation requests - Operate 24/7 (including having a judicial authority available 24/7 "within" the SPOC) - Have full access to EU and international law enforcement databases (i.e. SIS, Europol databases, Interpol databases and software applications such as EUCARIS) - Be connected to SIENA (for intra-EU cases & Member States), i24/7 (for cases involving third countries), SIS, the SIRENemail network, and TESTA-NG. - Involve staff in the SPOC who have full access to all relevant national case management systems (including those managed by customs and border guards) - Ensure that all relevant information from the PCCCs is integrated in the SPOC information system - Have arrangements for indirect (e.g. on a hit/no hit basis), but quick, effective and efficient access to relevant databases of other authorities or bodies (including customs and police) - Further coordination between the SPOCs and the PCCCs and integration of national SPOCs into the network of EMPACT actors • <i>Establishment of new provisions on the skills of law enforcement officials working primarily on international cases:</i> - Provision on appropriate English skills as a criterion ("entry criterion") for specific roles within certain law	• <i>Establishment of the SPOC as a "one stop shop" for LEA cooperation through common minimum standards:</i> - Operational recommendations and good practices for the setup, functioning and competences of a SPOC are currently provided as non-legislative EU measures in the form of manuals and guidance. Relevant non-binding measures are the <i>Council Document 6721/3/14 - Draft SPOC Guidelines for international law enforcement information exchange</i> and the <i>Council Document 10492/14 - Guidelines for a SPOC</i>. On EU level, there is no legal measure in place that requires MS to implement any of the points listed in the guidelines - Regarding the bi-/tri/multilateral agreements, only the agreement between the Nordic Countries (Denmark, Finland, Iceland, Norway and Sweden) specifically refers to the SPOC as well as its setup and functioning in the countries covered by the agreement. - Due to the lack of an existing binding measures for the establishment and competences of a SPOC on EU level, the introduction of binding common minimum standards does not cause any conflicts at this level. The measure proposed can be therefore assessed as coherent. An establishment of common requirements would rather serve as a legislative manifestation of good practices and guidance already included in manuals and guidelines on EU/international level. However, since the setup of the SPOC is often somehow legislated by national law, there might be some conflicts or at least need for adaption on the MS level. • <i>Establishment of new provisions on the skills of law enforcement officials working primarily on international cases:</i> - 22 of the out 48 agreements analysed mention something in relation to the language to be used for the exchange of information (mostly official language of the MS + English) - The definition of English skills as a criterion for specific roles is currently not included in relevant EU legislation. However, some MS such as Luxembourg have defined certain language skills as mandatory for specific positions in their national system. - This measure can therefore be assessed as coherent, while still taking into account that questions of competences, education and generally human resources are often within the MS competence. - Regarding mandatory training, there is currently no legal instrument at EU level requiring this. However, there are recommendations and guidelines, both on EU and national level what trainings would be valuable for specific roles.

No.	Problem	Elements of the option	Coherence
Specific objective 1: To ensure the efficient access to and exchange of necessary information among law enforcement authorities in an intra-EU context			
		enforcement agencies working primarily on international cases - Provision on mandatory training on EU law enforcement cooperation for officials in specific roles relevant for cross-border law enforcement and at specific levels (e.g. newcomers / senior officials) • <i>Establishment of flanking soft measures in the form of training measures:</i> - Establishment of an awareness raising and training campaign within the EU law enforcement community - CEPOL to provide training material to law enforcement agencies e.g. on how to use SIENA efficiently. The training material should focus on aspects common to all the Member States. The Member States would need to prepare additional training on the specificities in the individual country. - CEPOL to provide voluntary induction training on cross-border law enforcement - Expansion of the existing CEPOL practice to provide online courses on an ad-hoc basis on new EU level developments - Performance of a regular review of the training content provided by CEPOL	- An establishment of mandatory training would therefore rather be a legal manifestation of existing guidelines on EU level, than a completely new subject. However, when looking at the coherence with national law, it needs to be taken into account that in some countries do not allow for mandatory training (e.g. in Belgium). The establishment of mandatory trainings could therefore lead to conflicts between the EU and MS level. - The establishment of flanking soft measures is not considered to have any impact with regard to coherence. The represent a continuum and enforcement of already existing approaches and good practices.
Specific objective 2: To ensure that the growing intra-EU mobility is met with an adequate development of tailored joint operations			
2.1	Legal barrier: Law enforcement officials operating in other MS often have inadequate powers. Moreover, these powers vary between the MS, which leads to confusion.	• <i>New provision in the SFD on the conferral of powers:</i> The host MS should confer certain operational powers to officials of seconding MS that are involved in joint operations. Exceptions may be defined. See, for instance, Council Decision 2008/617/JHA Article 3.2 and 3.3: <i>Subject to agreement between the Member States concerned, assistance may consist of providing the requesting Member State with equipment and/or expertise and/or of carrying out actions on the territory of that Member State, using weapons if so required. In the case of actions on the territory of the requesting Member State, officials of the assisting special intervention unit shall be authorised to operate in a supporting capacity on the territory of the requesting Member State and take all necessary measures to provide the requested assistance in so far as they (i) operate under the responsibility, authority and direction</i>	• New provision on the conferral of powers: - EU measures on cooperation for public order and safety have a good level of consistency. However, some streamlining, and clarifications might positively affect the cooperation between national LEAs. But there are some uncertainties as regards the type of operations and activities that police authorities are entitled to carry out in the territory of another Member State, as well as to their executive powers when implementing such operations. - As per definition, this measure would be oriented towards the 2008/617/JHA Article 3.2 and 3.3 and therefore be coherent with it. However, the measure also needs to take into account CISA (Art. 40) and the Prüm Decision (Art. 17 and 18 of Council Decision 2008/615/JHA), of which latter provides the MS with a lot of freedom to define the scope, subject and conditions of joint operations and to decide whether such operations shall be carried out at all. To partially mitigate such vagueness and confusion, the Manual on cross-border operations (Council Document 13887/20) provides with a voluntary list of operations that countries can undertake pursuant Article 17 of the Council

No.	Problem	Elements of the option	Coherence
Specific objective 1: To ensure the efficient access to and exchange of necessary information among law enforcement authorities in an intra-EU context			
		<i>of the requesting Member State and in accordance with the law of the requesting Member State; and (ii) operate within the limits of their powers under their national law.</i>	Decision 2008/615/JHA. From a legislative perspective, it is important to clearly define "joint operations", since the coherence with existing EU legislation might vary according to it (e.g. CISA and the Prüm have different scopes - surveillance vs. joint operations). - In addition, it needs to be considered that the national law in MS often clearly defines the executive powers of foreign officials and show great differences. A new provision on the conferral of powers might therefore cause conflicts with national law, depending on the exact scope.
2.2	Technical barrier: Officials on the ground are not able to efficiently access the information they need to ensure public order and safety.	• <i>New provision in the SFD on the remote access to relevant law enforcement databases in specific situations:</i> The Member States are to provide [their own] officials on the ground remote access to specified police databases (or even specified data within them) in relation to specific types of international events (large-scale international football matches, mass tourism and music events, protection of VIPs etc.) via mobile terminals in specific geographical areas, such as major cities or regions where large-scale events take place more frequently. Restrictions on the use of specific types of information by the officials on the ground, including what information may be shared with officials from other countries, would be defined.	• New provision on the remote access to relevant law enforcement databases in specific situations: - There are currently no EU legislative measures in place regulating the remote access to relevant law enforcement databases in specific situations. Therefore, the measure can be assessed as coherent from a legal perspective. - On an operational level there were no major concerns articulated by stakeholders during the field research for this measure, indicating also a operational coherence (see e.g. first technical workshop). - On the national level, the evidence contained in the Schengen evaluation reports shows that 10 countries have full, 6 countries have limited, and 14 countries have no mobile access to law enforcement databases. Thus, the legislative measure suggested here is at least expected to affect 20 countries (assessment of coherence varies).
2.3	Structural barrier: National LEAs have limited financial and human resources to ensure an adequate use of joint operations.	• <i>Establishment of an appropriate financial instrument by the Commission</i> (e.g. through the ISF) to contribute to the funding of joint patrols in terms of staff costs; travel costs; accommodation; and expenses.	• There is currently no legislative EU measure in place, specifically used to fund joint patrols in terms of staff costs, travel costs, accommodation and expenses. The establishment of an appropriate financial instrument by the Commission would, due to the lack of conflicting legal provisions, be coherent.
2.4	Structural barrier: Cooperation between LEAs in different countries, e.g. for the purpose of joint operations in border regions,	• <i>New provision on cross-border threat assessment:</i> The Member States are to cooperate with neighbouring Member States to develop and use cross border threat assessment to better assess the need for joint operations and better inform their planning. • <i>Flanking non-legislative measures:</i> - Perform a pilot project to identify approaches to improve the development and use of joint threat assessment and risk analysis	• New provision on cross-border threat assessment: - The analysis of the EU measures relevant to operational cooperation for public order and safety showed that these measures do not extensively cover threat assessment and risk analysis. Only <i>Regulation (EU) 2019/1896</i> concerning "European integrated border management at the external borders" provides that "the European Border and Coast Guard shall establish an integrated planning process for border management and return, including operational planning, contingency planning and capability development planning processes".

No.	Problem	Elements of the option	Coherence
Specific objective 1: To ensure the efficient access to and exchange of necessary information among law enforcement authorities in an intra-EU context			
	is insufficiently informed by joint threat assessment/risk analysis.	- Development of data collection tools (questionnaire and manual) specifically for customs	- In order to enhance Member States' and SACs' development of risk assessment related to football matches, pursuant to Council Decision 2002/348/JHA concerning security in connection with football matches with an international dimension, NFIPs, if requested, can supply a risk analysis of their clubs and national teams (Art. 2.5). - Finally, pursuant to Recommendation (EU) 2017/820 in relation to proportionate police checks and police cooperation in the Schengen area, Member States' and SACs' risk assessment shall be continuously updated based on information retrieved during police checks at border areas. - However, while the two binding EU measures above cover common threat assessments in a very specific context/area, the last measure is a) non-binding and b) refers to how risk assessment should be updated and not with whom they should be shared. Therefore, a new provision to cooperate with neighbouring MS to develop and use cross-border threat assessment would be coherent with existing EU legal measures, rather broadening the scope of application with regard to areas than affecting the content of these measures. - Numerous bi-/tri-/multilateral agreements cover forms of information exchange for threat assessment: - o Ten agreements specify that the involved stakeholders will exchange information on threats and risks periodically. - o Four agreements explain that the contracting parties will develop joint analyses of threats and risks (AT-CZ, BE-DE-FR-LU, BG-CH, CH-FR). - o Five agreements explain that the stakeholders will analyse threats and risks together during meetings. - o The Benelux agreement (BE-NL-LU) explains that the contracting states can develop coordinated mechanisms to analyse crimes and threats to public order and security, however, the agreement does not make this obligatory. - o Most agreements do not specify how often information should be exchanged on threats and risks, but if a frequency is mentioned, the agreement refers to once a year or when the situation requires - The coherence of the suggested measure varies according to the specific agreement - The establishment of flanking soft measures is not considered to have any impact with regard to coherence.
Specific objective 3: To ensure efficient cross-border operational cooperation in relation to SOC and terrorism			
3.1	Legal driver: LEAs are not able to efficiently use	• <i>New provisions on surveillance:</i> - Extend the current EU legal provisions to also cover the use of cross-border of surveillance in relation to waterways, sea and air borders	• <i>New provision on surveillance:</i> - Cross-border surveillance is currently regulated by the Naples II Convention as well as non-binding EU measures such as a manual on cross-border operations providing practical tips and recommendation

No.	Problem	Elements of the option	Coherence
Specific objective 1: To ensure the efficient access to and exchange of necessary information among law enforcement authorities in an intra-EU context			
	investigative tools in a cross-border context and face obstacles caused by differences in national rules.	- Establish the possibility to start physical surveillance operations on the territory of another Member State - Simplify the legal requirements notably for a surveillance operation transiting by a Member State - Extend the list of offences in relation to which cross-border surveillance is allowed. In addition to the offences included in Articles 40-41 CISA, the extended list would cover the following offences: Extraditable offence; fleeing custody; crimes for which the European Investigation order is required. - Streamline the definitions of "pre-planned" and "urgent" surveillance in the relevant legislative provisions on EU level - Ensure the possibility for technical means of surveillance (e.g. GPS tracker, drone) - Define a common maximum time allowed to carry out cross-border surveillance activities, e.g. specific time as smallest common denominator: 14 days - Accept and cooperate with the institutions responsible to oversee cross-border implementation of investigative tools in other Member States • <i>New provisions on hot pursuit:</i> - Extend the current EU legal provisions to also cover the use of cross-border of hot pursuit in relation to waterways, sea and air borders - Extension of offences in relation to which cross-border hot pursuit is allowed. In addition to the offences included in Articles 40-41 CISA, the extended list could cover the following offences: Extraditable offence; fleeing custody; crime under the European Arrest Warrant. - Permit cross-border hot pursuit continue for at least an hour - Establish common rules for hot pursuit, e.g.: (i) Permit the requesting party the right to continue the hot pursuit if the requested party cannot take over the pursuit in time at a minimum; (ii) Permit hot pursuit beyond extraditable offences if someone avoids police or border checks without any time and territorial restrictions; Permit hot pursuit without any distance limit	- CISA (Art. 40 (3), a, e and f) states that that officials engaged in cross-border surveillance must comply with the Regulation and the law of the Contracting Party in whose territory they are operating and obey the instructions of the competent local authorities. CISA also stipulates that officials are neither authorised to enter into private homes and places not accessible to the public nor arrest the person under surveillance. - Surveillance is covered by 30 bi-/tri/multilateral agreements. Six agreements only mention that surveillance can be used but do not specify any rules or regulations to use this investigative tool. Three agreements (AT-IT, DE-FR, DE-PL) mention the CISA as the primary source for rules and regulations on using cross-border surveillance. The other agreements cover different rules for the employment of surveillance as an investigative tool. All of these agreements state that in urgent cases the border can be crossed prior to approval by the other contracting party, but that it needs to be stopped as soon as this is requested by the requested party. However, the definition and understanding of "urgent" often varies. - Since CISA is highly focussed on the compliance of law enforcement officials with the respective national law, a new provision clearly defining common rules for the application of this investigative tool, would not per se represent a lack of coherence between legislative measures on EU level. The binding definition of standards could rather be understood as a supplement or advancement to the existing EU legislation. However, the fact that the rules for and definition of surveillance are in many MS clearly defined and perceived as MS competence by multiple stakeholders during the field research might cause implementation challenges. Also, the diversity of national rules and number of agreements in this context is considerable. Depending on the current regulation in the MS, the coherence between this measure and national law varies significantly between MS. The same accounts for agreements. In general, there is a fundamental lack of coherence between the measure proposed and the agreements regarding the primary legislative basis for the use of surveillance and the role of EU legislation in this specific area. • <i>New provision on hot pursuit:</i> - Even though the applicable rules on EU level appear to be overall consistent, the different scope of application of hot pursuits as defined in the CISA (only via land – Art. 41) and in the Naples II Convention (also by sea – Art. 20) might be at the origin of inconsistencies when the same tool is implemented by the police (following the CISA) or by the customs (following the Naples II Convention). This picture is even more complex considering that, pursuant to Article 41(7) CISA, in some countries customs authorities are allowed to carry out hot pursuits. - The Manual on cross-border operations 13887/20 indicates, in Article 3.2, that Member States can use hot pursuits to investigate one of the offences listed in CISA at Article 41(4)(a) or extraditable offences. This flexibility leads to

No.	Problem	Elements of the option	Coherence
Specific objective 1: To ensure the efficient access to and exchange of necessary information among law enforcement authorities in an intra-EU context			
		- Establish minimum standards on the rights and duties of the pursuing officials, including the right to: search a person; put on handcuffs; apprehend; detain; stop cars; perform preliminary arrest, if local authorities do not arrive on time	differences in the type of offences for which the tool is allowed at the national level. - Hot pursuit is predominantly included when the agreement involves contracting parties which share a direct land border. A total of 29 agreements cover the topic of hot pursuit. Four agreements use the regulations provided in the CISA for hot pursuit. While the agreements clearly point out that national legislation remains the primary legislative basis for the use of hot pursuit, they generally provide additional operational details for the use of the tool. - Based on the bullet points above, the proposed measure would represent an extension of existing EU legal measures, but no conflict and can on this level therefore be assessed as coherent. However, the very diverse rules for hot pursuit enshrined both in national law as well agreements might cause implementation challenges. Also, the agreements show that national legislation remains the primary legislative basis for the use of hot pursuit. Depending on the current regulation in the MS, the coherence between this measure and national law varies significantly between MS. The same accounts for agreements. In general, there is a fundamental lack of coherence between the measure proposed and the agreements regarding the primary legislative basis for the use of hot pursuit and the role of EU legislation in this specific area.

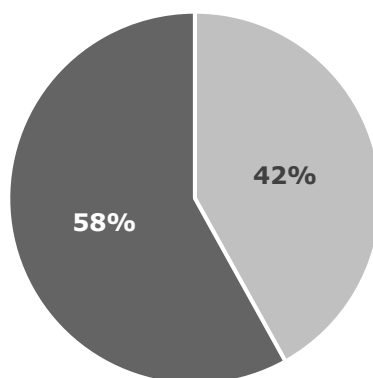
Source: Author's own elaboration

7 EXPECTED CHANGES FROM POLICY OPTIONS IN MEMBER STATES

7.1 Access to and exchange of necessary information

7.1.1 Set-Up and competences of the SPOC and PCCC

Figure 1- SPOC's staff



- Countries with available information on SPOC staff
- Countries without available information on SPOC staff

Source: Authors' elaboration based on Schengen evaluation reports

- In 13 countries, data on SPOC staff is available.
- In 18 countries, no data on SPOC staff is available.
- All countries would be affected if were to be established as "one stop shops" for LEA cooperation, if SPOCs were to have full access to EU and international law enforcement databases or if they were to have full access to relevant national case management systems.

Table 9 - Main features of SPOC's CMS

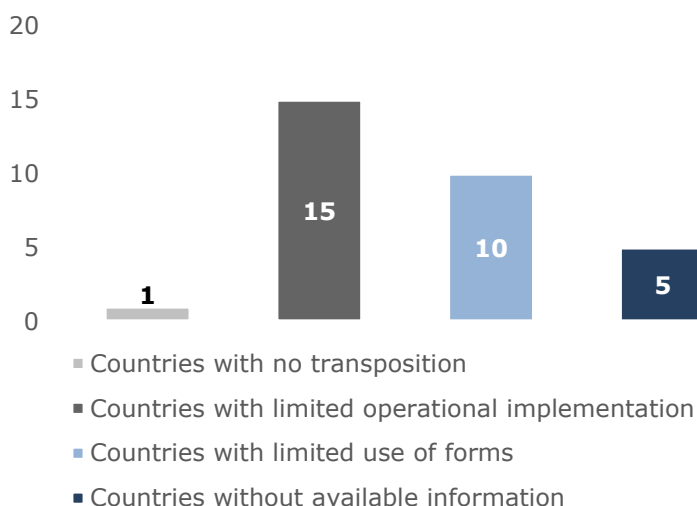
	C1	C2	C3	C4	C5	C6	C7	C8	C9	C10	C11	C12	C13	C14	C15	C16	C17	C18	C19	C20	C21	C22	C23	C24	C25	C26	C27	C28	C29	C30
Model	D		E	D	A	E		A	A	C	D			B	B			D	D	A	D		A	E		B	C		E	E
CMS in place	Yes		Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes		Yes	Yes	Yes	Yes
CMS linked with LEAs			No	Yes	Yes			No		No	Yes	Yes	Yes		Yes		Yes	Yes	No	No	No		No		No		Yes	Yes	No	No
CMS linked with PCCC	No		Yes	Yes	No			No		No			Yes					No	No		No		No	No	No		Yes	Yes	No	
CMS linked with SIRENE II			Yes	Yes	Yes			No	Yes		Yes	No	Yes		Yes		Yes		Yes	No	No			Yes	Yes		Yes	Yes	No	Yes
CMS linked with Interpol			Yes	Yes	Yes			No	Yes		Yes		Yes		Yes		Yes			No	No			Yes	No		Yes	Yes	No	Yes
CMS linked with Europol			No	Yes	Yes	No		No			Yes	No	Yes		Yes		Yes		No	No	No			Yes	No		Yes	No	No	No
Cross-check functions			No		Yes			No		No		No	Yes		No		Yes	No	Yes		No		No			No	Yes	No	No	
Automatic upload					Yes												Yes		No									Yes		
Notification of deadlines					No	No		No		Yes			Yes				No			No	No			No	No				No	
Statistical functionality				No	Yes					No			Yes																	No

Source: Authors' elaboration based on desk research (dark grey cells indicate that no information is available)

- Five different SPOC workflow structures exist at national level,¹ with 5 countries reported to have the most advanced model.²
- 9 countries reported that the CMS of the SPOC has access to that on the rest of LEAs, 5 to that of PCCCs.

7.1.2 Information exchange via SIENA and other communication channels

Figure 2 - Implementation of the Swedish Framework Decision

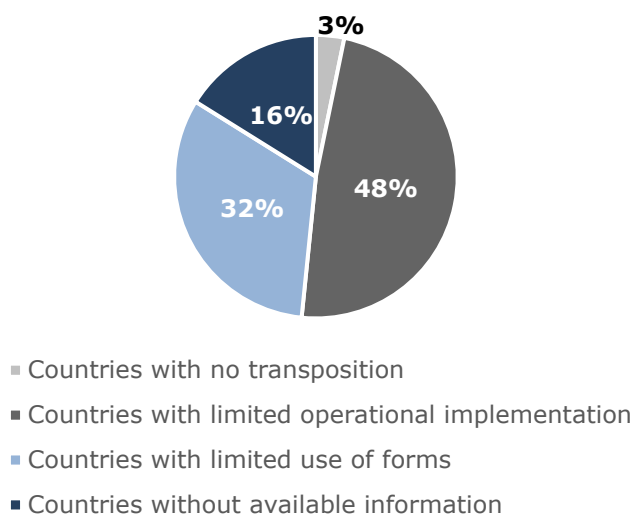


Source: Authors' elaboration based on Schengen evaluation reports

¹ Model A: a different office for each channel, different training and a different case management system (CMS); Model B: a different office for each channel, different training/assignments, and two offices share the same CMS; Model C: SPOC sends and receives messages, while other offices handle the different channels. Different training for each office and each office has its own CMS; Model D: One CMS, one office but separate assignments and training depending on the channel; Model E: One SPOC handles all messages through one CMS and all staff have the same training. See Note from the Presidency of the Council of the EU to the Working Party for Schengen Matters (SIS/SIRENE)/Mixed Committee (EU-Iceland/Norway and Switzerland/Liechtenstein on Single Point of Contact (SPOC) - Possible mean for decreasing SIRENE workload (8031/19).

² The distribution of each country towards the models has been made based on the best information available to the study team. However, C5 for instance argued that the, in practice, none of the models elaborated fits entirely for their law enforcement authorities and that the organizational set up is in fact more complicated than described in the respective Schengen Evaluation Report

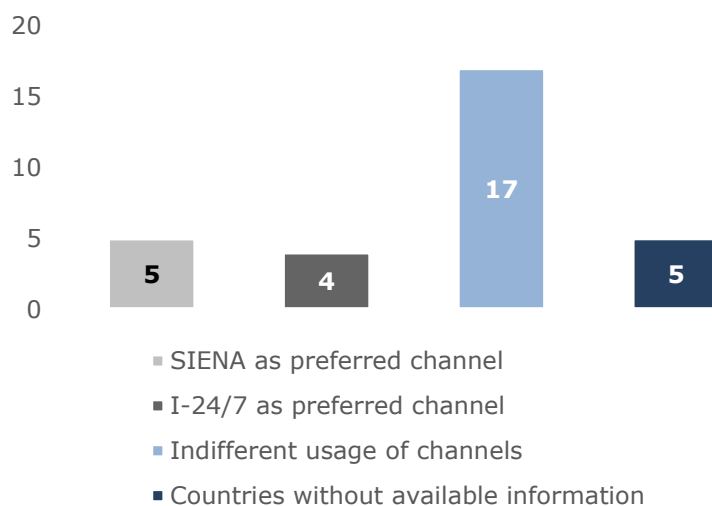
Figure 3 - Implementation of the Swedish Framework Decision



Source: Authors' elaboration based on Schengen evaluation reports

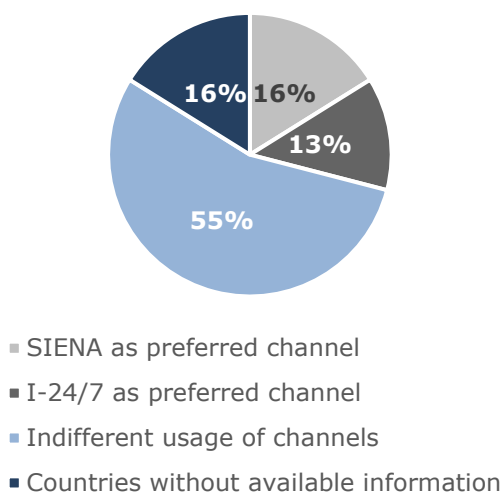
- 15 countries report limited use of the forms of the SFD. If new, simpler, and more user-friendly forms were to be introduced, these 15 countries might be particularly affected.
- 10 countries report limited operational implementation of the SFD. If new, simpler, and more user-friendly forms were to be introduced, these 10 countries might be particularly affected.

Figure 4 - Preferred communication channel



Source: Authors' elaboration based on Schengen evaluation reports

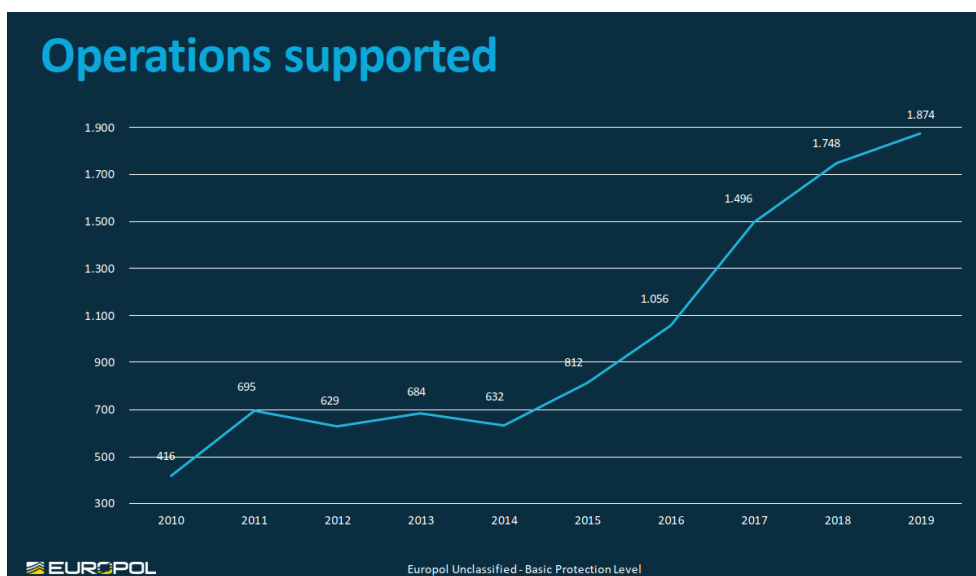
Figure 5 - Preferred communication channel



Source: Authors' elaboration based on Schengen evaluation reports

- If SIENA was established as the preferred / default channel for information exchange, this would imply changes for 4 countries who currently prefer the I-24/7 channel.
- For those 17 countries which are indifferent between communication channels establishing SIENA as the preferred / default channel would imply smaller changes as for those who clearly prefer the I-24/7.
- For 5 countries which use SIENA as the preferred communication channel, no change is expected.
- If English was established as the default language for the use of SIENA and if newer, simpler and more user-friendly forms were to be established, all countries would be affected.

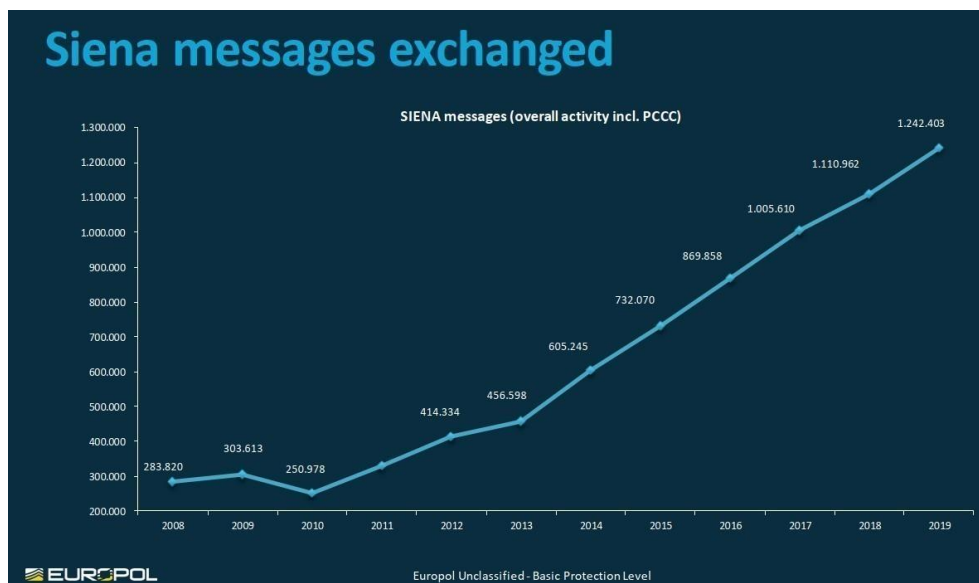
Figure 6 – Number of supported operations



Source: Europol³

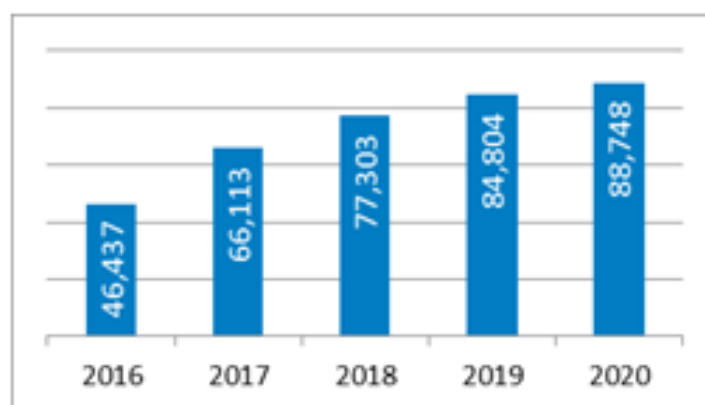
³ Europol (2020) *Welcome to Europol An Operational Overview*.

Figure 7 – Number of exchanged messages in SIENA



Source: Europol⁴

Figure 8 – Number of initiated cases per year



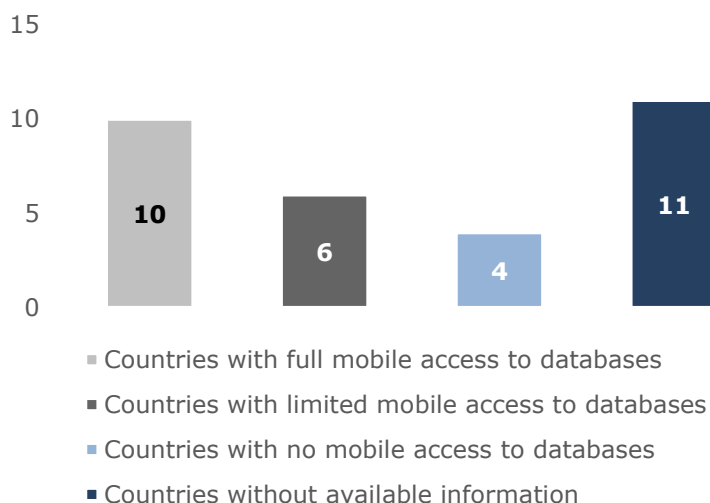
Source: Europol, SIENA Annual Report 2020⁵

⁴ Europol (2020) *Welcome to Europol An Operational Overview*.

⁵ Europol (2020) *SIENA Annual Report 2020*.

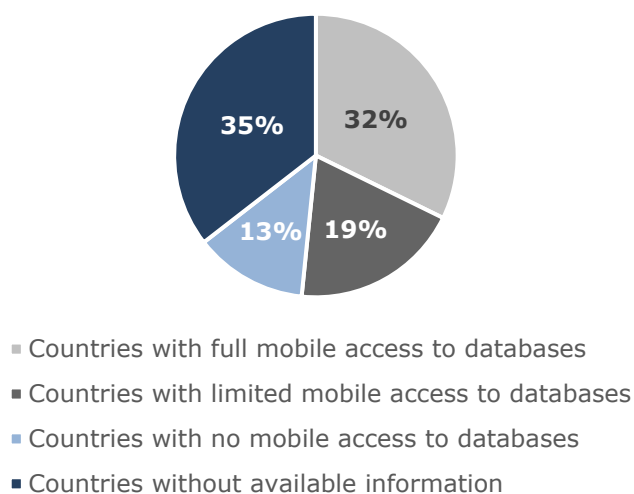
7.1.3 Use of secure communication means

Figure 9 - Availability of mobile access to law enforcement database



Source: Authors' elaboration based on Schengen evaluation reports

Figure 10 - Availability of mobile access to law enforcement database



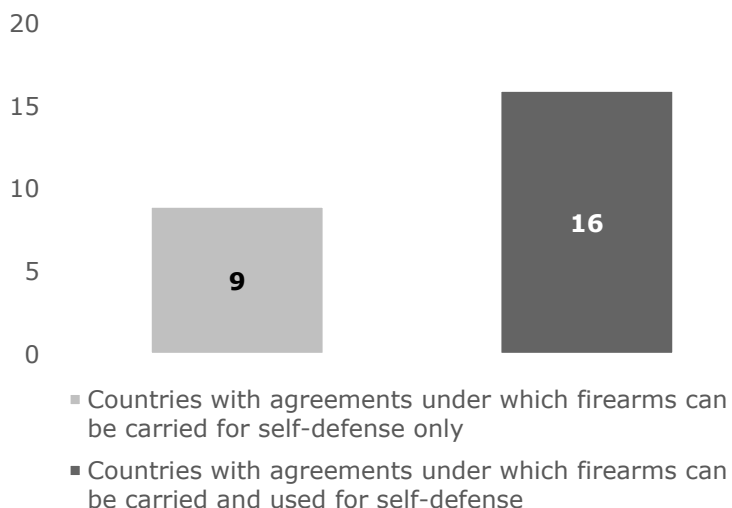
Source: Authors' elaboration based on Schengen evaluation reports

- If common standards were developed for those countries that already have full or limited mobile access, 16 countries would be affected.
- 15 countries have either no mobile access or no information is available for these countries. The development of common standards might imply larger changes for these countries than for those that already have some sort of mobile access.

7.2 Operational cooperation for public order and safety

7.2.1 Conferral of certain operational powers to officials of seconding MS involved in joint operations

Figure 11 - Use of firearms by foreign officials, as stipulated by the agreements

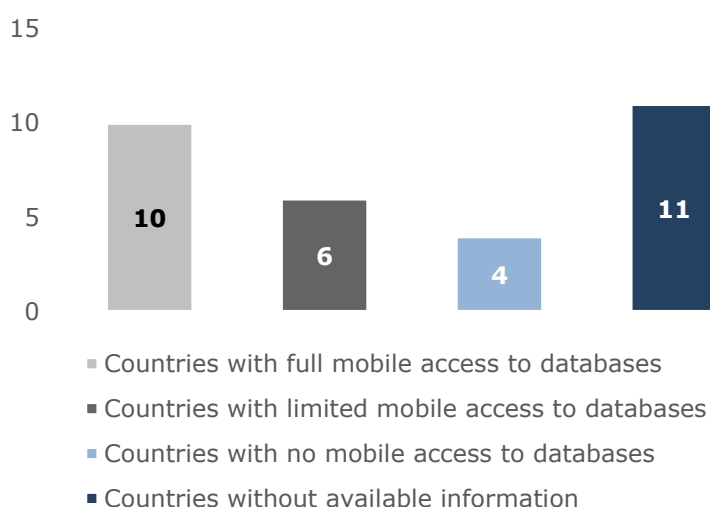


Source: Authors' elaboration based on desk research

- The current restrictions on the use of firearms in host States are complex and difficult to cluster.
- In 9 countries, firearms can only be carried for self-defense, but no more. Any changes related to the conferral of certain operational powers to officials of seconding MS involved in joint operations are expected to have the largest effects in those 9 countries with very limited operational powers.

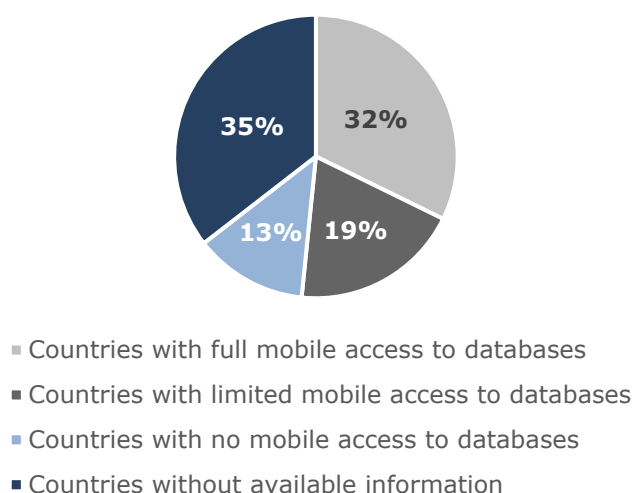
7.2.2 Remote access to specific police databases for officials on the ground

Figure 12 - Availability of mobile access to law enforcement database



Source: Authors' elaboration based on Schengen evaluation reports

Figure 13 - Availability of mobile access to law enforcement database



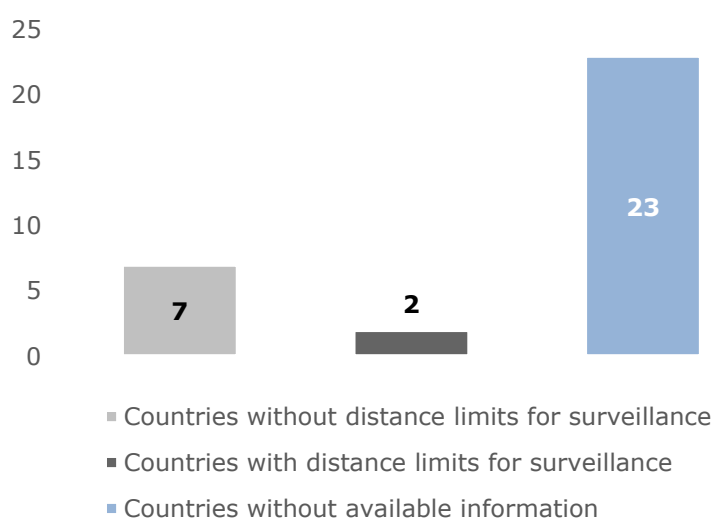
Source: Authors' elaboration based on Schengen evaluation reports

- 16 countries have already full or limited mobile access to law enforcement databases.
- 6 countries have limited mobile access to law enforcement databases. Changes are expected for these countries if MS are to provide officials on the ground remote access to specified police databases or even specified data within them.
- 15 countries have either no mobile access or no information is available for these countries. Changes relating to the provision of officials on the ground remote access to specified databases are expected to be larger for these countries than for those that already have some sort of mobile access.

7.3 Operational cooperation for SOC and terrorism

7.3.1 Surveillance

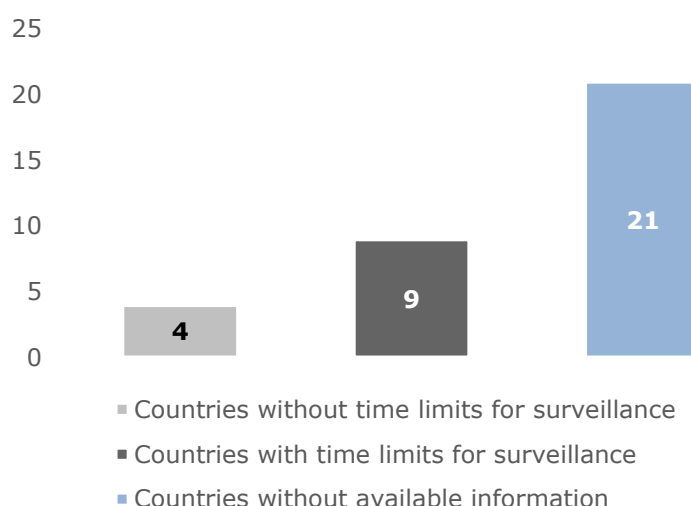
Figure 14 - Distance limitations for surveillance



Source: Authors' elaboration based on desk research

- In 7 countries, no distance limits for surveillance exist in bilateral agreements. If a common maximum time allowed to carry out cross-border surveillance activities is defined, no changes are expected for these countries.
- In 2 countries, the distance for surveillance is limited to the first point of turnaround in bilateral agreements.
- For 23 countries, no specific distance limitations for surveillance are specified. These countries would be affected if a common maximum time allowed to carry out cross-border surveillance activities are defined.

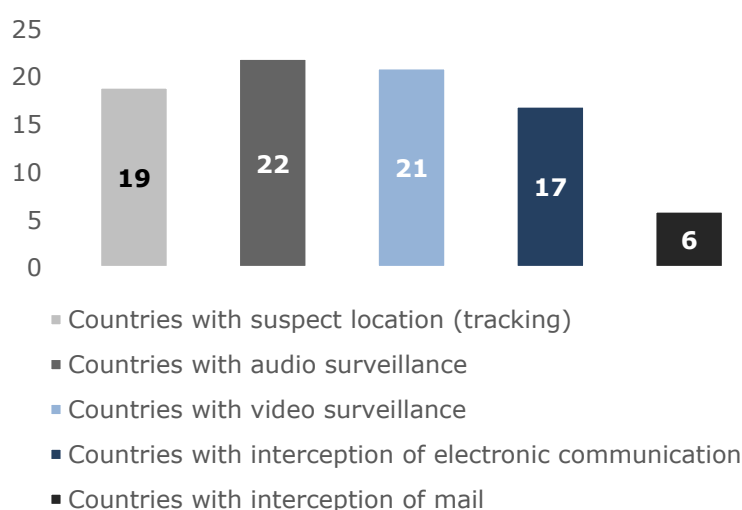
Figure 15 - Time limitations for surveillance



Source: Authors' elaboration based on desk research

- 4 countries have agreed on no time limits for surveillance in bilateral agreements. If a common maximum time allowed to carry out cross-border surveillance activities is defined, no changes are expected for these countries.
- 9 countries came to agreements for time limits for surveillance in bilateral agreements.
- In 21 countries, no specific time limits are written down in agreements. These countries would be affected if a common maximum time allowed to carry out cross-border surveillance activities are defined.

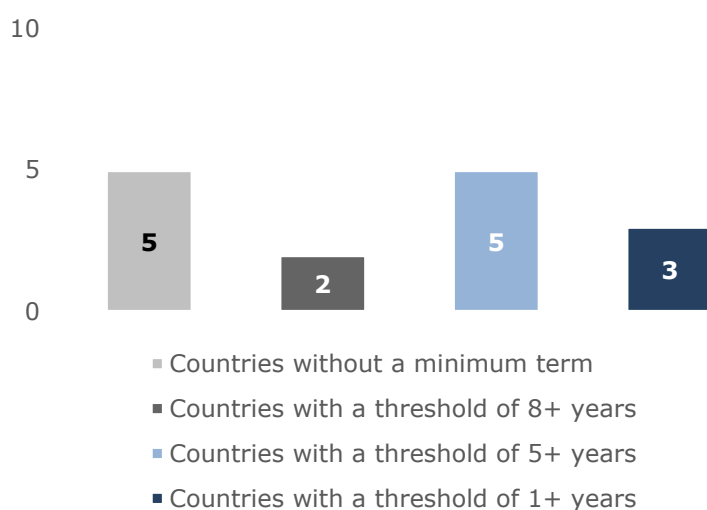
Figure 16 - Overview of different surveillance techniques specified in national law



Source: Authors' elaboration based on desk research

- In 19 countries, suspect location is specified in national law. In 12 countries, suspect location is not specified in national law. If minimum standards for the implementation of suspect location are defined, those countries without national provisions are expected to face larger changes.
- In 22 countries, audio surveillance is specified in national law. In 8 countries, audio surveillance is not specified in national law. If audio-surveillance is established as an investigative tool and a common set of rules/criteria for implanting audio-surveillance is defined, those countries without national provisions are expected to face larger changes.
- In 21 countries, video surveillance is specified in national law. In 10 countries, video surveillance is not specified in national law. If minimum standards for the implementation of audio recording, voice bugging and GPS tracking are defined, those countries without national provisions are expected to face larger changes.
- In 17 countries, interception of electronic communication is specified in national law. In 14 countries, interception of electronic communication is not specified in national law. If minimum standards for the implementation of audio recording, voice bugging and GPS tracking are defined, those countries without national provisions are expected to face larger changes.
- In 6 countries, interception of mail is specified in national law. In 25 countries, interception of mail is not specified in national law. If minimum standards for the implementation of audio recording, voice bugging and GPS tracking are defined, those countries without national provisions are expected to face larger changes.

Figure 17 - Relevant custodial thresholds for use of surveillance techniques during investigations

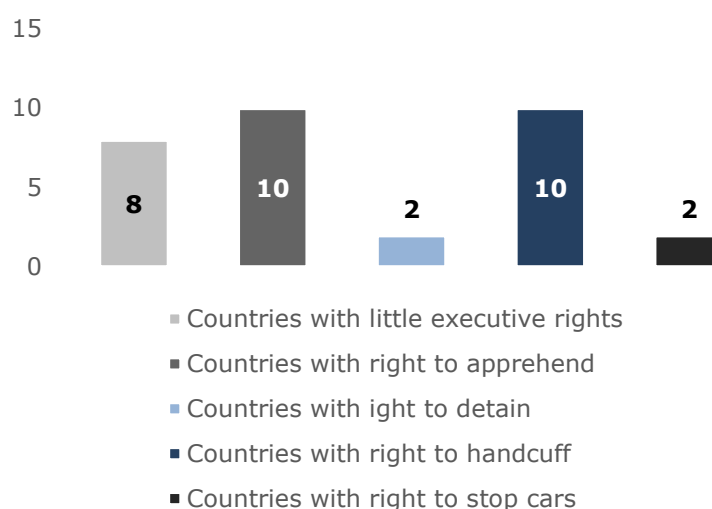


Source: Authors' elaboration based on desk research

- In 5 countries, no minimum term for custodial thresholds for the use of surveillance techniques during investigations is. If the list of offences in relation to which cross-border surveillance is allowed is extended, these countries are expected to face little to no changes.
- In 10 countries, minimum terms for custodial thresholds for the use of surveillance techniques during investigations are specified. If the list of offences in relation to which cross-border surveillance is allowed is extended, these countries are expected to face smaller changes than those without specified custodial thresholds.
- Changes are expected for those 16 countries which do not have relevant custodial thresholds for use of surveillance techniques during investigations.

7.3.2 Hot pursuit

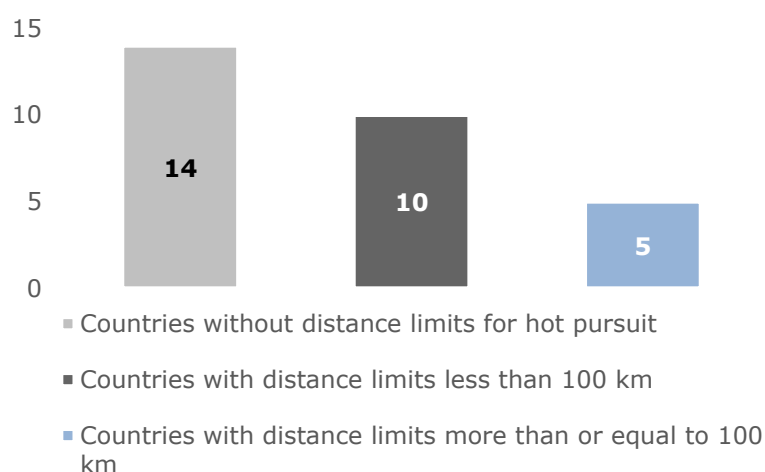
Figure 18 - Foreign officials' right to arrest during hot pursuit as per bi/tri/multilateral agreements⁶



Source: Authors' elaboration based on desk research

- The current restrictions on the officials' rights to arrest during hot pursuit in host States are complex and difficult to cluster.
- In 8 countries, foreign officials have little executive rights to arrest. Any changes related to the harmonisation/establishment of minimum standards on the rights and duties of the pursuing officials are expected to have the largest effects in those 8 countries with limited executive rights.

Figure 19 - Hot pursuit time and distance limits



Source: Authors' elaboration based on desk research

⁶ If 'country requested' or 'as per agreement' column is blank, this means that information provided in the Schengen Evaluation Report only mentioned application on the territory of the country.

Figure 20 - Hot pursuit time and distance limits

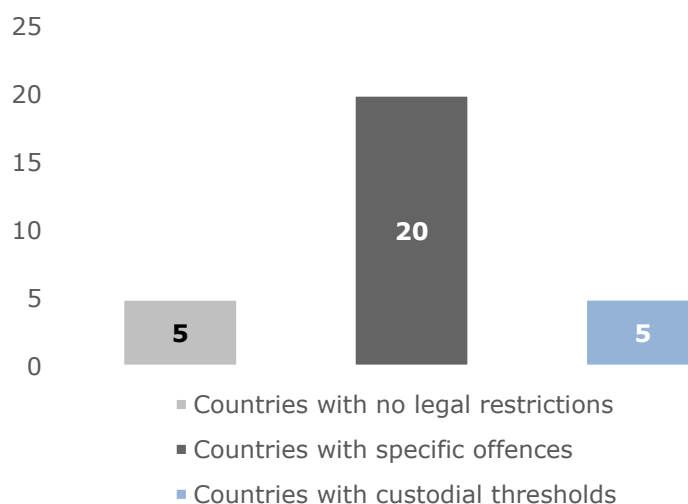


Source: Authors' elaboration based on desk research

- 14 countries have agreed on no distance limits for hot pursuit. For these countries, there would be no changes if cross-border hot pursuit was permitted to continue without distance limits.
- 10 countries have agreed on distance limits less than 100 kilometres. These countries are expected to be particularly affected if common rules such as no distance limits are established.
- 17 countries have not agreed on no distance limits for hot pursuit. These countries are expected to be affected if common rules such as no distance limits are established.
- 13 countries have agreed on no time limits for hot pursuit. For these countries, there would be no changes if cross-border hot pursuit was permitted to continue without time limits.
- 18 countries have not agreed on no time limits for hot pursuit. These countries are expected to be affected if common rules such as no time limits are established.

7.3.3 Controlled delivery

Figure 21 - Category of legal restrictions affecting use of controlled delivery during investigations

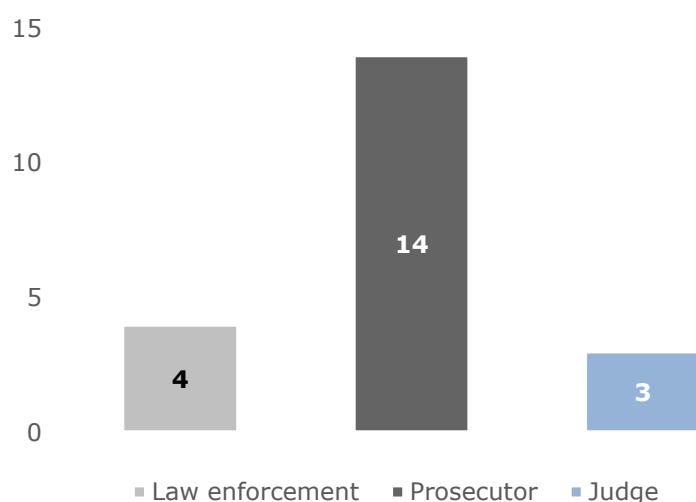


Source: Authors' elaboration based on desk research

- 5 countries have no restrictions affecting the use of controlled delivery during investigations. There would be no change for these countries relating to forwarding requests for authorisations to the competent national authorities.
- 25 countries have some sort of restrictions in place affecting the use of controlled delivery during investigations. These countries are expected to face changes relating to forwarding requests for authorisations to the competent national authorities.

7.3.4 Authorisations for investigative tools

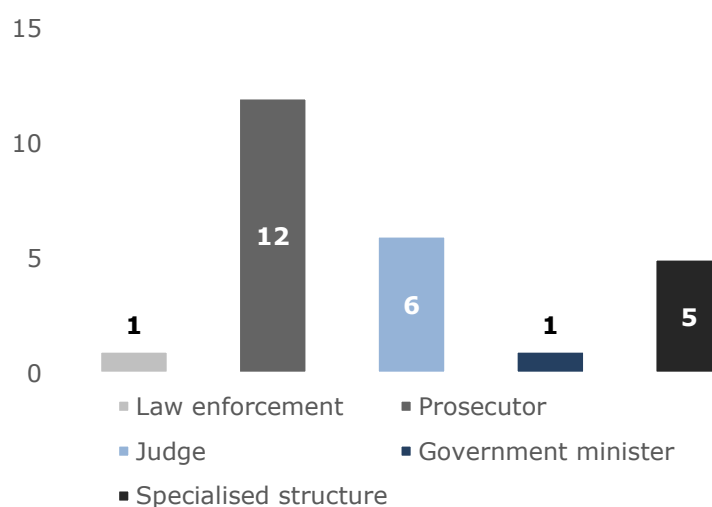
Figure 22 - Bodies permitted to authorise use of controlled delivery during investigations



Source: Authors' elaboration based on desk research

- The procurement of a study, providing an overview by investigative tool would mean no change to all countries.
- In 4 countries, law enforcement bodies are permitted to authorise the use of controlled delivery.

Figure 23 - Bodies permitted to authorise use of witness protection during investigations

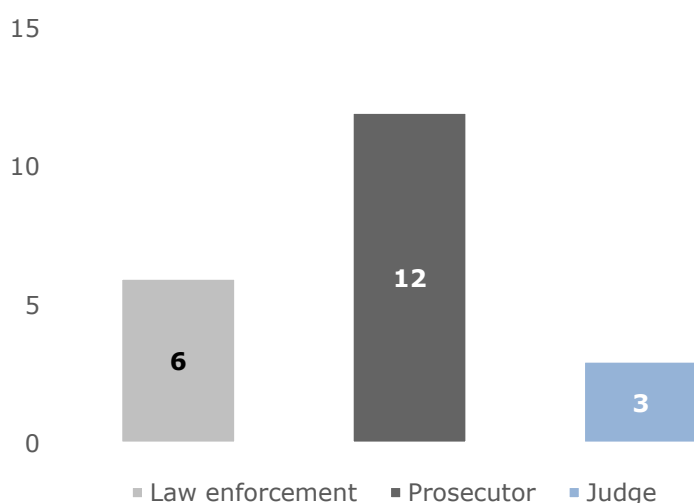


Source: Authors' elaboration based on desk research

- The procurement of a study, providing an overview by investigative tool would mean no change to all countries.

- Only in 1 country, law enforcement bodies are permitted to authorise the use of witness protection.

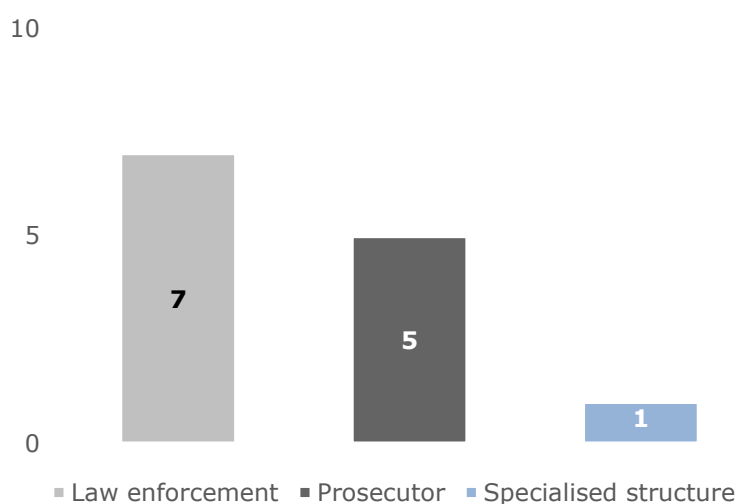
Figure 24 - Bodies permitted to authorise use of covert operations during investigations



Source: Authors' elaboration based on desk research

- The procurement of a study, providing an overview by investigative tool would mean no change to all countries.
- In 6 countries, law enforcement bodies are permitted to authorise the use of covert operations.

Figure 25 - Bodies permitted to authorise use of informant during investigations



Source: Authors' elaboration based on desk research

- The procurement of a study, providing an overview by investigative tool would mean no change to all countries.
- In 7 countries, law enforcement bodies are permitted to authorise the use of informants.
- In total, only in 1 country, LEAs are permitted to authorise the use of controlled delivery, witness protection, covert operations and the use of informants.

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