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**EUROPEAN UNION
THE COUNCIL**

Brussels, 7 July 1999

9684/99

LIMITE

**COPEN 14
EJN 6
CRIMORG 87**

NOTE

from : General Secretariat
to : Working Party on Cooperation in Criminal Matters
European Judicial Network
Multidisciplinary Working Group on Organized Crime

Subject : Statement of good practice in mutual legal assistance in criminal matters
- Portugal

Portugal has deposited the attached Statement of good practice in mutual legal assistance in criminal matters with the General Secretariat pursuant to Article 1(1) of Joint Action 98/427/JHA of 29 June 1998 on good practice in mutual legal assistance in criminal matters¹.

In conformity with Article 1(2) and Article 3 of the said Joint Action, the Statement is hereby circulated to Member States and made available to the European Judicial Network.

SEMDOC

Statewatch European Documentation &
Monitoring Centre on justice and home
affairs in the European Union

PO Box 1516, London N16 0EW, UK
tel: 0181 802 1882 (00 44 181 802 1882)
fax: 0181 880 1727 (00 44 181 880 1727)

¹ OJ no. L191, 7.7.98, p. 1

**STATEMENT OF GOOD PRACTICE IN
EXECUTING REQUESTS FOR
LEGAL ASSISTANCE IN CRIMINAL MATTERS**

Pursuant to and for the purposes of Article 1, paragraphs 1 and 3 of the Joint Action of 29 June 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on good practice in mutual legal assistance in criminal matters, the Portuguese Republic undertakes to promote good practice in executing requests, including transmission of results, from other Member States and sending requests to other Member States for legal assistance in criminal matters.

The Portuguese Republic undertakes specifically to promote the following practices, primarily through the involvement of the authorities responsible for executing the request:

- (a) Where requested to do so by the requesting Member State, to acknowledge all requests and written enquiries concerning the execution of requests unless a substantive reply is sent quickly;
- (b) When acknowledging requests and enquiries, to provide the requesting authority with the name and contact details, including telephone and fax numbers, of the competent authority, and if possible the person, responsible for the request;
- (c) To give priority to requests which have clearly been marked "urgent" by the requesting authority; and to treat requests, whether or not marked "urgent", no less favourably than comparable enquiries made in the requested Member State on behalf of that Member State's own authorities;
- (d) Where the assistance requested cannot be executed in whole or in part, to give the requesting authorities a written or oral report explaining the difficulty and where possible offering to consider jointly with the requesting authority how the difficulty might be overcome;

- (e) Where the assistance cannot, or cannot fully, be provided within any deadline set by the requesting Member State and this will impair proceedings in that Member State, promptly to give its authority a written or oral report, and any further reports requested by that authority explaining when the assistance requested is likely to be provided;
 - (f) To submit requests for assistance as soon as the precise assistance needed is identified and, where a request is marked "urgent" or a deadline is indicated, to explain the reasons for the urgency or deadline; and not to mark as "urgent" requests which are of minor importance;
 - (g) To ensure that requests are submitted in compliance with the relevant treaty or other international arrangements;
 - (h) When submitting requests for assistance, to provide the requested authorities with the name and contact details, including telephone and fax numbers, of the competent authority and, if possible, the person responsible for issuing the request.
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**EUROPEAN UNION
THE COUNCIL**

Brussels, 7 July 1999

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LIMITE

**COPEN 13
EJN 5
CRIMORG 86**

NOTE

From :	General Secretariat
To :	Working Party on Cooperation in Criminal Matters European Judicial Network Multidisciplinary Working Group on Organized Crime
Subject :	Statement of good practice in mutual legal assistance in criminal matters - Ireland

Ireland has deposited the attached Statement of good practice in mutual legal assistance in criminal matters with the General Secretariat pursuant to Article 1(1) of Joint Action 98/427/JHA of 29 June 1998 on good practice in mutual legal assistance in criminal matters¹.

In conformity with Article 1(2) and Article 3 of the said Joint Action, the Statement is hereby circulated to Member States and made available to the European Judicial Network.

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¹ OJ no. L191, 7.7.98, p. 1

Joint Action of 29 June 1998 on Good Practice in Mutual Assistance in Criminal Matters

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Statement of Good Practice by Ireland

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This statement relates to practice in executing requests to Ireland from other member states for legal assistance in criminal matters and sending such requests from Ireland to other member states. It is without prejudice to the provisions of the proposed Convention on Mutual Assistance in Criminal Matters between the Member States.

Ireland undertakes to promote the following practices in accordance with its national law and legal procedures:

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in relation to incoming requests -

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- (i) to acknowledge all requests and written enquiries concerning the execution of requests within 7 working days of receipt in the Central Authority at the Department of Justice, Equality and Law Reform;
- (ii) when acknowledging a request or enquiry referred to at (i) to provide the requesting authority with the name of the officer of the Central Authority responsible for processing the request and other contact details, including telephone and fax numbers and a case reference number;

- (iii) to examine in the Central Authority all requests within 21 working days of receipt, to advise the requesting authority of any modification to the request which may be required and, where appropriate, to furnish the requesting authority with a copy of any relevant legislative provision;
- (iv) to endeavour to meet dates specified by requesting authorities for the execution of requests; to give priority, to requests which have clearly been marked "urgent" by the requesting authority; and, to treat requests, whether or not marked "urgent", no less favourably than comparable enquiries made on behalf of authorities in Ireland;
- (v) to arrange for the execution of all requests for service of summonses, judgements and other procedural documents in the manner requested, insofar as that is not contrary to Irish law.
- (vi) where the assistance requested cannot be executed in whole or in part, to give the requesting authority a written or oral report explaining the difficulty and where possible to offer to consider jointly with the requesting authority how the difficulty might be overcome;
- (vii) where it is foreseeable that the assistance cannot, or cannot fully, be provided within any deadline set by the requesting Member State and that this will impair proceedings in the requesting Member State, to give its authority without delay a written or oral report and any further reports requested by that authority explaining when the assistance requested is likely to be provided;
- (viii) to invite requesting authorities to make regular contact with the Central Authority to ascertain progress on the execution of their requests;
- (ix) to inform the requesting authority when a request has been fully executed and to transmit to the requesting authority all material collated in executing the request as soon as is practicable after such material has been furnished to the Central Authority;

- (x) to make available in a number of languages a Guide to Irish Law and Procedures relating to Mutual Assistance in Criminal Matters and to revise the Guide as necessary to take account of changes in Irish law and procedures;

in relation to outgoing requests -

- (xi) to submit requests for assistance as soon as the precise assistance needed is identified; where a request is marked "urgent" or a deadline is indicated, to explain the reasons for the urgency or deadline; and not to mark as "urgent" requests which are of minor importance;
- (xii) to ensure that requests are submitted in compliance with the relevant treaty or other international arrangements;
- (xiii) when submitting requests for assistance, to provide the requested authorities with the name and contact details, including telephone and fax numbers of the authority and of the person responsible for issuing the request.



**EUROPEAN UNION
THE COUNCIL**

Brussels, 7 July 1999

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LIMITE

**COPEN 7
EJN 2
CRIMORG 77**

NOTE

from :	General Secretariat
to :	Working Party on Cooperation in Criminal Matters European Judicial Network Multidisciplinary Working Group on Organized Crime
Subject :	Statement of good practice in mutual legal assistance in criminal matters - Germany

Germany has deposited the attached Statement of good practice in mutual legal assistance in criminal matters with the General Secretariat pursuant to Article 1(1) of Joint Action 98/427/JHA of 29 June 1998 on good practice in mutual legal assistance in criminal matters¹.

In conformity with Article 1(2) and Article 3 of the said Joint Action, the Statement is hereby circulated to Member States and made available to the European Judicial Network.

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¹ OJ no. L191, 7.7.98, p. 1

Joint Action of 29 June 1998
adopted by the Council on the basis of Article K.3 of the Treaty on European Union,
on good practice in mutual legal assistance in criminal matters

(98/427/JHA)

Statement of good practice pursuant to Article 1(1) of the Joint Action

With reference to Article 1(1) of the Joint Action of 29 June 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on good practice in mutual legal assistance in criminal matters, the Federal Republic of Germany wishes to make the following statement:

1. With reference to Article 1(3)(a) and (b), we should like to point out that the Federal Republic of Germany has already stated that the German authorities will issue acknowledgements pursuant to Article 1(3)(a) and (b) of the Joint Action on good practice in mutual legal assistance in criminal matters if they are of the opinion that these are appropriate for expediting the execution of the relevant request or written enquiry.

Where receipt of a request or a written enquiry concerning the execution of a request is acknowledged pursuant to this statement, the German authorities will provide the requesting authority with the name and contact details, including telephone and fax numbers, of the authority and, if possible, the person, responsible for executing the request.

2. The German authorities will give priority to requests which have been clearly marked "urgent" by the requesting authority, unless contrary to German law. All requests, whether marked "urgent" or not, will be treated no less favourably than comparable enquiries made in Germany on behalf of the German authorities.

3. Where the assistance requested cannot be executed in whole or in part, the requesting authorities will be given a written or oral report explaining the difficulty and where possible offering to consider jointly with the requesting authority how the difficulty might be overcome.
4. Where it is foreseeable that the assistance cannot, or cannot fully, be provided within any deadline set by the requesting Member State and that this will impair proceedings in the requesting Member State, the authority of that State will promptly be given a written or oral report, and any further reports requested by it explaining when the assistance requested is likely to be provided.
5. Requests for assistance will be submitted as soon as the precise assistance needed is identified. Where a request is marked "urgent" or a deadline is indicated, the reasons for the urgency or deadline will be explained. Requests of minor importance will not be marked "urgent".
6. It will be ensured that requests are submitted in compliance with the relevant treaty or other international arrangements.
7. When submitting requests for assistance the requested authorities will be provided with the name and contact details, including telephone and fax numbers, of the authority and, if possible, the person, responsible for issuing the request.
8. Germany assumes that the Joint Action does not require it to make any changes to its 1959 directives for relations with foreign countries in criminal matters; these directives, which are regularly updated, ensure the proper conduct of mutual legal assistance with foreign countries.



**EUROPEAN UNION
THE COUNCIL**

Brussels, 7 July 1999

9682/99

LIMITE

**COPEN 12
EJN 4
CRIMORG 85**

NOTE

from :	General Secretariat
to :	Working Party on Cooperation in Criminal Matters European Judicial Network Multidisciplinary Working Group on Organized Crime
Subject :	Statement of good practice in mutual legal assistance in criminal matters - United Kingdom

The United Kingdom has deposited the attached Statement of good practice in mutual legal assistance in criminal matters with the General Secretariat pursuant to Article 1(1) of Joint Action 98/427/JHA of 29 June 1998 on good practice in mutual legal assistance in criminal matters¹.

In conformity with Article 1(2) and Article 3 of the said Joint Action, the Statement is hereby circulated to Member States and made available to the European Judicial Network.

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¹ OJ no. L191, 7.7.98, p. 1

JOINT ACTION ON GOOD PRACTICE IN MUTUAL LEGAL ASSISTANCE IN CRIMINAL MATTERS

STATEMENT OF GOOD PRACTICE SUBMITTED BY THE UNITED KINGDOM IN ACCORDANCE WITH ARTICLE 1 OF THE JOINT ACTION

Requests to the United Kingdom for evidence

The Home Office, being the central authority for the United Kingdom in mutual legal assistance in criminal matters, will:

- acknowledge all requests for evidence upon receipt, giving the name of the Home Office officer handling the request, his or her telephone and fax numbers and a reference number for any queries;
- respond to all general enquiries about the execution of requests for assistance within 10 working days of receipt;
- upon receipt of the request where the request is marked “urgent”, or no later than 20 working days after receipt in other cases, either: provide the requesting authority with the assistance sought; or inform the requesting authority of the action being taken to obtain the assistance and provide where possible the name(s) and other contact details of the person(s) with responsibilities for executing the request; or provide the requesting authority with a full explanation why the request cannot be executed in its entirety or in part and where possible indicate how the assistance might otherwise be obtained;

- if the requesting authority notifies the United Kingdom that it is necessary, provide within 20 working days of receipt of the notification a report on the progress of the request and where possible indicate by when the request will be executed, and update that report on a similar time scale;
- endeavor to meet all reasonable time scales for the execution of requests, including urgent requests.

Requests to the United Kingdom for service of process (summonses and other procedural documents)

The Home Office will:

- arrange for the execution of all requests for service of summonses within 10 working days of receipt;
- execute all requests for service of process in the manner requested insofar as that is compatible with United Kingdom law, and where that is not possible provide the requesting authorities with a full explanation;
- acknowledge simultaneously the receipt and the execution of requests for service of summonses (unless the Home Office has not received signed proof of service at least 10 working days before the hearing date, in which case the acknowledgement will confirm the arrangements made to execute the request);

- acknowledge simultaneously the receipt and the execution of requests for service of judgements and other procedural documents (unless the Home Office has not received signed proof of service after 30 working days, in which case the acknowledgement will confirm the arrangements made to execute the request);
- when acknowledging requests for service of procedural documents, provide the requesting authorities with the name and other contact details of the officer in the Home Office who has handled the request, including telephone and fax numbers and a reference number for any queries.

Requests from the United Kingdom to other Member States

The Home Office will:

- ensure that requests received from judicial and prosecuting authorities in the United Kingdom for transmission abroad specify the name and contact details of the issuing authority, and include the name of the Home Office officer handling the request, his or her telephone and fax numbers and a reference number for any enquiries;
- ensure that the requests are in conformity with relevant treaty and other international obligations;
- ensure that any request which is of minor importance is not marked "urgent", and that no request is marked "urgent" or sets any deadline for execution of the request unless the reason for the urgency or deadline is stated;
- not ask for a request to be acknowledged where the request is not marked "urgent" or the request does not explain why an acknowledgement is necessary.

Other matters

The Home Office has brought this Statement to the attention of judicial and other competent authorities in the United Kingdom asking them to:

- take reasonable steps to ensure that requests are submitted as soon as the need for the assistance is identified;
- promote measures within their competence as may be necessary to ensure that the undertakings in this Statement are fulfilled.

The Home Office will review compliance with the undertakings in this Statement before 31 December 2000.
