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**NOTE**

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**From:** Presidency  
**To:** Working Party on Information Exchange and Data Protection (DAPIX) /  
Permanent Representatives Committee  
**Subject:** "Prüm Decisions"  
- Presidency progress report

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In the Hague Programme for strengthening freedom, security and justice in the European Union of November 2004, the European Council set forth its conviction that an innovative approach to the cross-border exchange of law enforcement information – on the basis of the principle of availability – was needed. It also particularly replied to the call of the Tampere European Council (1999) to make use of new technologies for stepping up cross-border police cooperation, through the mutual access to national databases. The "Prüm Decisions", adopted in 2008 (Council Decision 2008/615/JHA and Council Decision 2008/616/JHA) intend to step up cross-border prevention and investigation of crime, through the exchange of DNA, dactyloscopic and vehicle registration data.

Against the backdrop of the current security situation in the EU, increasing attention is drawn to cross-border information exchange. The use of databases and, in particular in this context, the advantages of the "Prüm Decisions" have become more visible, also at Ministerial level. Thereby answering the pivotal question if the instruments truly support cross border cooperation is topical.

In several cases, cross-border cooperation through Prüm proved to be very successful for law enforcement.

For example, an elderly married couple was found killed in Vienna (Austria) in 2015. The Austrian police found DNA of the perpetrator on the crime scene, but no match in their DNA-database. By means of a Prüm data comparison, they found a match in the Netherlands DNA-database. Austria subsequently had a name matching the DNA trace and started searching for the perpetrator. It turned out that the suspect was active on social media and a couple of weeks later he was arrested in Germany. The extradition to Austria of the suspect needed the assistance of his state of origin, which meant another (fourth) Member State was to be involved. In Austria, the suspect admitted another murder in Sweden and an attempted one in Salzburg a few weeks earlier.

Another example was a rape in Munich (Germany). The police was able to seize palm print latent at the crime scene and a search in the national and international Prüm AFIS with the seized latent was launched. The latent had a hit in Austria. The police was able to identify the criminal and he could be arrested.

A last example from a case which was solved through Prüm, was an armed robbery in Köln (Germany). Two masked man, armed with handguns, robbed a gambling hall and stole money from the cash box. Through Prüm DNA comparison, Germany could identify one of the offenders. The man was registered in the Austrian DNA database after he committed store theft in Austria. The police was able to identify and arrest this person in Slovakia.

The examples above exemplify the added value while experiences make apparent that obstacles - beside the lack of full implementation of the instruments in all Member States- still hinder the full application of the Prüm Decisions. To that end, the Presidency together with Member States endeavoured to further determine those obstacles and the necessary stepping stones to address them.

The Working Party on Information Exchange and Data Protection (DAPIX) is mandated to monitor the implementation of the "Prüm Decisions". The Presidency herewith submits a report on the progress made with regard to the implementation of the "Prüm Decisions" in the first semester 2016.

## **Prüm Decisions - state of play of implementation of automated data exchange**

(5017/4/16 JAI 2 DAPIX 1 ENFOPOL 3 CRIMORG 1)

The Presidency regularly submits an overview, setting out the state of play of the Prüm implementation. During the first semester 2016, all in all, three evaluation visits were carried out, namely in DK on DNA, FP and VRD. Subsequent to the Council Implementing Decision, on which the European Parliament has to be consulted, DK will become operational before the end of 2016.

BE, LV, PL and SE have declared having implemented the obligations imposed on them under the Prüm Decision and indicated their willingness to immediately apply the Decision in their relations with those Member States which have given the same notification.

In addition, a number of new bilateral connections between operational Member States, in particular with regard to FP data exchange have been established.

Eight Member States have not yet completely implemented Prüm and the Commission has informed that it is scrutinising the reasons for this.

### **Prüm opt-in of the United Kingdom**

(5650/16 JAI 65 DAPIX 19 ENFOPOL 24 ENFOCUSTOM 13)

The United Kingdom notified the Commission and Council by letter on 22 January 2016 its wish to participate in the "Prüm Decisions". On 20 May 2016, the Commission confirmed, in accordance with Article 331(1) TFEU, the participation of the United Kingdom.

### **Participation of the Swiss confederation and the Principality of Liechtenstein in the "Prüm Decisions"**

(9370/1/16 CH 6 FL 26 JAI 479 CRIMORG 40 ENFOPOL 158 RELEX 427 DAPIX 81)

On 9 June 2016, the Council adopted the Decision on authorising the Commission to start negotiations for the conclusion of agreements between the EU, on the one hand, and CH and LI, on the other hand, on the application of certain provisions of the "Prüm Decisions".

## **Determining possible (technical) obstacles in the application of Prüm, including Prüm statistics and reports on automated data exchange 2015**

(5129/16 JAI 9 DAPIX 2 CRIMORG 3 ENFOPOL)

Discussions on possible obstacles in the application of Prüm started at the DAPIX meeting of 26 January 2016 (5295/16 DAPIX 7). The most prominent obstacles identified are lack of clarity of the post-hit procedure, a possible overload of systems (during working hours), certification of encryption modalities and legal obstacles. Also a call for additional training was made.

Following the requirement of Art. 21 of Council Decision 2008/616/JHA to carry out an evaluation of the application of the data exchange pursuant to Chapter 2 of Decision 2008/615/JHA on a regular basis, each Member State compiles statistics on the results of automated data exchange. These statistics are annually forwarded to the General Secretariat of the Council, which produces a summary overview for the past year.

The General Secretariat provided a compilation of the Prüm-statistics for 2015 concerning the automated exchange of DNA data, of dactyloscopic data as well as of Vehicle Registration Data (VRD) which shows an increase of the data exchange.

The compilation was submitted to DAPIX at the meeting of 15 March 2016. A number of inconsistencies came forward, which called into question the very essence of the statistics, that is the comparability, readability as well as reliability of the figures. Subsequently, delegations agreed to verify and, where necessary, adjust the figures submitted.

Based on a discussion paper (7912/1/16 REV 1 JAI 286 DAPIX 56 CRIMORG 29 ENFOPOL 106), DNA and FP experts examined at the meeting of 18 May 2016 the statistical overview aiming at identifying possible technical obstacles in the daily application of Prüm.

The discussion at the expert meeting showed that due to the lack of using a uniform procedure for the cross-border automated searching and comparison of DNA profiles, methodological irregularities in establishing data exchange statistics arise. The statistical model should take account of these differences, so that all experts at national level are aware.

The discussion on FP data exchange focussed on figures as to the performance of the verification procedure and hence, to the non-application of certain search types by some Member States. Therefore, best practices were exchanged and experts agreed which search type is to be considered as the most appropriate. Following these discussions, the delegations agreed to amend the statistical model.

### **Council Conclusions and Action Plan on European Forensic Science Area**

(8770/16 ENFOPOL 133 COPEN 140 DAPIX 69 COSI 76)

On 9 June 2016, the Council adopted the draft Council Conclusions and Action Plan on the way forward in view of creating a European Forensic Science Area, which mention explicitly the importance of the Prüm Decisions and the need to foster its implementation.

### **Prüm Decisions and Information Management Strategy (IMS)**

(5175/2/16 REV 2 JAI 18 CATS 1 DAPIX 4 ASIM 3 JURINFO 1)

On 18 December 2014, the Council approved a renewed Information Management Strategy (IMS) for EU internal security (15701/1/14). The IMS aims at supporting, streamlining and facilitating the management for cross-border information exchange between law enforcement authorities, authorities responsible for border management, and judicial authorities dealing with criminal matters.

The IMS provides guidance on how to translate business needs into structures and content, and contains a number of focus areas and strategic goals to be achieved. The Presidency took steps to propose the 5th Action List, for the next 18 months, starting on 1 July 2016. To that end, delegations were invited to propose actions and define concrete goals and deadlines for specific actions.

Action No 6 is focused on Prüm DNA post-hit procedures. The suggested action builds upon and complements the outcome of the ISEC funded project "Developing the exchange of DNA data and the related post-hit information exchange under the Prüm Decision" aimed, in particular, at finding out best practices to manage the post-Prüm hit communication process and enhancing information sharing with Europol. The action is aimed at a result as practical and concrete as possible.

## **The Roadmap to enhance information exchange and information management including interoperability in the JHA Area<sup>1</sup>**

The Presidency undertook a concerted effort with all Member States and Schengen associated countries, the Commission, the EU Counter Terrorism Coordinator and EU agencies to establish a Roadmap to enhance information exchange and information management including interoperability in the JHA Area. Implementation and effective application of the Prüm decisions is a dedicated action in the proposed Roadmap, which was submitted for endorsement to the Justice and Home Affairs Council at its meeting on 10 June 2016.

The objective is to ensure full use of Prüm possibilities to exchange DNA and dactyloscopic data as well as VRD on the basis of the following actions:

- a) The Commission undertakes EU pilots and if required follow-up steps to enforce connections of Member States to the Prüm network;
- b) Identify key obstacles for the connection to the Prüm network, the full use of Prüm possibilities, and solve the obstacles;
- c) Examine the possibility for Europol to become a partner in the Prüm framework with a view to enabling the cross matching of DNA, finger prints and vehicle registration data with third countries with which Europol has an operational agreement while fully taking the information owner principle into account.

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<sup>1</sup> 9368/1/16 JAI 478 COSI 92 FRONT 224 ASIM 80 DAPIX 80 ENFOPOL 157 SIRIS 90 DATAPROTECT 57 VISA 165 FAUXDOC 23 COPEN 172