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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 30 November 2017
To: Working Party on Information Exchange and Data Protection (DAPIX)
Subject: Summary of discussions

1. Adoption of the agenda

The agenda was adopted as set out in CM 4724/17.

2. Information from the Presidency

No issue was raised under this point.

3. Monitoring of the implementation of Directive (EU) 2016/681 on the use of PNR data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

3.1 Update on the Informal Working Group on PNR (IWG PNR)

The chair (DE) of the IWG PNR and the chair (SE) on its subgroup on interoperability presented the outcome of the mapping (14710/17) regarding the appropriate channel for communication between passenger information units (PIU / PIU). As to the option of using SIENA, a majority of Member States showed their interest in connecting their PIUs with SIENA.

As a consequence , SIENA should be dealt with in the IWG PNR as the recommended communication channel and further discussions should take place on the PIU.net project in order to ensure a harmonised way forward. Further technical meetings on the PNR Directive within the IWG PNR, with the Commission and the PIU.net project were planned to take place in The Hague from 14-18 January 2018.

Delegations broadly supported the SIENA option but underlined that the application needed to be adapted to PIU purposes and that, redesigning of the security requirements in order to get connectivity with SIENA from a lower security level was needed. Some delegations voiced concerns about the PIU.net project and, in view of the number of questions to be asked at technical and legal level, considered it premature to judge the project.

3.2 Update on the Advance Information Working Group

The item was postponed to a later meeting.

3.3 PNR implementation state of play

The Commission informed:

- to continue supporting national implementation efforts, in particular those of Member States lagging behind the Commission implementation milestones;
- that the Commissioner would report progress to the JHA Council of 7/8 December 2017,
- that the state of play would be set out in the forthcoming Security Union report.

3.4 Way forward

Based on the views exchanged on ROVER, the Europol platform for experts on PNR issues, the Presidency summarised that:

- the PNR Directive is to be implemented in its current form, whereas extending its scope to high speed trains, international buses and ships should be postponed to a later stage;
- the IWG PNR should continue its current efforts and these should focus on the interoperability of IT solutions;
- efforts with regard to air carrier connections should be coordinated with a view to reaching a common approach.

4. Prüm Council Decision

4.1 Implementation – state of play

Delegations took note of [5081/5/17 REV 5](#) and were invited to inform regularly the GSC about changes in order to maintain a reliable presentation of the state of play. They were furthermore informed that the draft Council Implementing Decision regarding VRD exchange in Portugal had been submitted for consultation purposes to the European Parliament on 27 November 2017.

4.2 Organisation of evaluation visits ([5296/4/17 REV 4](#))

Greece informed that the VRD evaluation visit was planned for 6/8 December 2017.

4.3 Implementation of DNA and FP data exchange in Croatia

Delegations took note of the presentation by Croatia on the state of play.

4.4 Ongoing evaluation

Croatia

Delegations took note of the replies to the questionnaires on:

- *Data protection with particular regard to DNA and FP data exchange (12144/14 ADD1),*
- *DNA data exchange (14526/17),*
- *FP data exchange (14522/17),*

and the planned evaluation visits for DNA in January 2018 and FP in June 2018.

Ireland

Delegations took note of the replies to the questionnaires on:

- *Data protection (14246/17),*
- *Dactyloscopic data exchange (14245/17),*

and of the planned evaluation visits for FP in February 2018 and, subject to the submission of the reply regarding DNA data exchange, for DNA in March 2018. IE informed furthermore that due to conflicting legal advice, legislation regarding VRD exchange was still pending.

United Kingdom

Several delegations entered scrutiny reservations or had remarks and the CLS raised some questions on the replies to the questionnaires on:

- *Data protection with particular regard to VRD (14950/2/16 REV 2 ADD 1),*
- *Vehicle registration data exchange (14605/17).*

The issues raised were the following: the reference to biometric data in a VRD questionnaire, the reference to Directive 95/46/EC given that Regulation (EU) 2016/679 will enter into force in May 2018, the possibilities to supply data to other entities in accordance with Art. 27 of Council Decision 2008/615/JHA, and which parts of the requesting procedure are automated.

4.5 Fingerprint daily search capacities

Delegations confirmed the tables on search capacities set out in 11211/3/17 REV 3, which would be integrated as Annex 4 ter into the Prüm overview (see pt. 4.1 above.)

4.6 Available VRD data per Member State

Delegations were informed that 12613/1/17 REV 1 would be revised due to further information received. They were invited to inform the GSC by 15 December 2017 on their agreement to insert the table as Annex 5 bis into the Prüm overview (see pt. 4.1 above).

4.7 VRD in Finland / update 2017

In order to inform delegations about organisational and technical changes at national level regarding VRD exchange, the FI delegate presented:

- the reply to questionnaire on data protection / update 2017 with particular regard to VRD (14683/17),
- the reply to questionnaire on exchange of VRD / update 2017 (14687/17),
- the exchange of VRD evaluation 2010 / update 2017 (14686/17).

The CLS explained that no re-evaluation procedure was provided for by the "Prüm Decisions" after the adoption of a Council Decision on the launch of automated data exchange. However, if Member States would wish to strengthen mutual trust in the case of an operational Member State having reorganised information exchange procedures, it was suggested to carry out re-testing of the technical connections or information visits if need be.

4.8 Outcome of questionnaire on Prüm DNA hit follow up methods

On the basis of 14145/17, the Belgian delegate explained that a certain slow-down of post hit DNA information exchange was due to the complex internal procedures, which involve the coordination of judicial and law enforcement authorities in Belgium. He suggested that in order to gain time in the case of judicial assistance after a stain/person match by means of a letter rogatory, Member States should request from Belgium the disclosure of the reference profile and corresponding further personal information on the data subject at the same time.

5. Information Management Strategy (IMS)

5.1 Implementation of action list No 5 (5307/3/17 REV 3)

Delegations were informed about the state of play of

action 1: ATHENA SPOC training as set out by the IT delegate with regard to the first meeting of Heads of SPOCs in Tallinn on 7/8 November 2017 (15141/17);

action 3: ADEP - The FR delegate explained the strategic perspective of the ADEP (Automation of data exchange processes), that is pragmatically streamlining current procedures, in particular investigation procedures, with a view to enhancing interoperability between all entities involved in EU cross-border information exchange in the security area. He underlined that ADEP would comply with data protection, privacy and security requirements. ADEP will also be an opportunity to test the German Universal Software (GUS) built to exchange metadata within the security area; the first one which will deal with metadata in the field of security. He furthermore emphasized the compatibility of ADEP against the background of ongoing discussions on interoperability solutions in the EU with a view that ADEP would be operational next year. Despite the fact that ADEP is designed to fight mass trans-border criminality, it is also useful for the fight against terrorism (most of terrorists are already known in national databases for small and middle criminality acts). Europol, which is involved in the process, will cross check data with data on persons and object already known in the EIS.

The DE delegate outlined the ADEP pilot outcome and the five milestones for implementing ADEP, that is after (1) functional tests and (2) the establishment of connections, at least three Member States would be prepared (3) for tests in a pre-production environment as of January 2018 and (4) for the business validation in the production environment as of April 2018, so that (5) the conclusive evaluation report could be expected in June 2018.

On the question of delegations whether ADEP would imply a change of EU legislation , the project leaders replied that the project focus lies on the technical feasibility and to show the added value. Consequently, the issue of the legal framework should be envisaged once the added value of ADEP would have been quantified. The Commission confirmed that the drafting of a potential Directive would be started, if necessary, in the light of the final results of the project.

The next meeting will be held in Helsinki on 10 and 11 January 2018.

action 4: Enhancing data quality, on the basis of the oral progress report from the euLISA representative ;

action 5: UMF: as explained by the DE delegate:

workstream 1 - Enhancing UMF standard: work had started in September on the UMF 2.0 version, to be ready in March/April 2018 and comprise all pending requirements except the detailed definitions of biometrics. However, for biometric data several proven standards exist and such data can be attached or imbedded in a UMF message already today. A focus group meeting (“person description” and “organisation”) would discuss UMF 2.0 from 4 to 6 December 2017.

workstream 2 - Governance structure: the findings of the focus group, which met in Wiesbaden (DE) in July 2017, had been incorporated discussed at the plenary meeting on 25 October 2017 hosted by Interpol in Lyon, where the Commission confirmed that they were working on a legal proposal to embed the UMF Governance in the EU legal framework. For the UMF3 project group only the update of the current Governance document to the next and final version remains to do. According to the grant agreement, this work stream ends with the suggestion of a governance structure since the project has no power to implement or establish the UMF governance.

workstream 3 - Pilot implementation: The implementation in the operational environment was initially scheduled for Q4/2017. The third focus group meeting on pilots took place end of September in Madrid, at the data processing centre of the National Police, where it turned out that ES was ready to go live at any time, whereas others were still implementing. Europol was ready so far, but waiting for the approval by the EDPS.

The major issue still unresolved was Europol's accreditation requirements which do not yet allow for the SIENA connection with unclassified networks. This affects the "going-live" procedure significantly in PL and also to a certain extent in FI and GR. Europol confirmed that it is working on the implementation of a basic protection level (BPL) in SIENA to solve that problem. If not solved, all project partners, except PL will be technically ready or operational either this year or early next year.

action 7: PCCC European dimension - as set out by the BE delegate (14623/17), who suggested that, in the light of progress made, this action should be continued and inserted in the forthcoming 6th action list.

Furthermore, he presented the outcome of the survey on request of COSI on the use of SIENA in PCCCs (14629/17)¹. The outcome had been discussed with Europol experts at the intermediate PCCC conference in The Hague on 7/8 November 2017, where the importance of SIENA for PCCCs had been highlighted as the need to further adapt SIENA to the needs of PCCCs.

Europol explained that a number of problems mentioned would be tackled by the SIENA 4.0 version, expected to be delivered in 2018. In particular the development of the multi-level security approach, which would allow for acceding SIENA from networks with a lower security level (Basis Protection Level - BPL), would be of benefit for PCCCs.

action 8: Strengthening of SPOCs - as orally set out by the MT delegate, who promised detailed information for the forthcoming meeting.

¹ The NL delegate asked the BE delegation to revise some details concerning EPICC Kerkrade.

5.2 Manual on Law Enforcement Information Exchange

Delegations took note of the updated national fact sheets (6261/17 ADD1 REV 1).

5.3 Preparation of draft IMS Action List No 6

Above all, delegations recommended to continue not yet completed actions of list No 5 and reduce the number of actions on the draft list (11269/1/17 REV1). As to the proposals:

- on action 3 (*Drafting of a Prüm manual*) (13546/17 DAPIX), voiced concerns about reduplication of content already set out in other documents and recommended, if such a manual would be needed, to reduce it to the presentation of "good practices";
- on action 5 (*UMF*), DE confirmed its willingness to coordinate a follow-up project (UMF3+ or UMF4), for which partners were needed. He explained that the Commission had reserved some budget under the ISF (police part) to get the UMF standardisation even a step further by supporting Member States. Member States were invited to indicate their interest in the project to Johann Jergl (johann.jergl@bmi.bund.de) or the UMF project team (IT-UMF@bka.bund.de);
- on action 6 (*Cooperation of police and border authorities with judicial authorities*), CZ promised a note for the forthcoming meeting and some delegations asked about how the proposal would be linked with activities ongoing in LEWP or COSI;
- on action 10 (*Use of mobile information devices*), orally outlined by the CZ delegate, delegations recommended to take into account activities ongoing in the ENLET group in the frame work of LEWP.

- on action 11 (*Biometric identifiers in cross-border information exchange*), some delegations asked about how the proposed action would interlink with activities ongoing in different fora on the same issue;
- several delegations voiced concerns about the scope of proposed action 12 in its current form (*Interoperability between EES/ETIAS/PNR information exchange*) and suggested to focus the action on PNR data exchange as such, and furthermore to deal with it in the IWFG PNR framework;
- euLISA showed an interest in being involved in the proposed actions 10, 11 and 12, in case these will be confirmed within the 6th action list.

The Presidency took note of the interventions and, in view of requests for more information on the proposed actions, concluded that the sixth action list would be established under the incoming Presidency.

6. Priorities of the Bulgarian Presidency

The incoming Presidency outlined its work program with a focus on the implementation of the "Prüm Decisions", the PNR Directive (a PNR conference is planned in Sofia for the 21 February 2018), and the actions of the IMS list, in particular the strengthening of SPOCs. DAPIX meetings are planned for 26 February, 16 April and 12 June 2018.

7. AOB

The Commission informed about the meeting, held in the morning of 30 November 2017, on the negotiation for the conclusion of agreements between the EU and Switzerland and Liechtenstein on the application of certain provisions of the "Prüm Decisions", and that the final texts for the agreements would be drafted quite soon.
