



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 8 January 2013

17313/12

**JAI 875
DAPIX 159
CRIMORG 146
ENFOPOL 405
ENFOCUSTOM 140
COMIX 714**

OUTCOME OF PROCEEDINGS

of : Meeting of the Working Group on Information Exchange and Data Protection
(DAPIX)
Mixed Committee (EU - Iceland/Liechtenstein/Norway/Switzerland)

on : 3 December 2012

Subject : Summary of discussions

MIXED COMMITTEE

1. Adoption of the agenda

The meeting adopted the agenda as set out in doc. CM 5027/12 with the addition of the information point on the "Directive on the protection of individuals with regard to processing of personal data" and of a presentation of the PCCC Europol Platform for Experts (EPE) by the BE delegation.

2. Swedish Framework Decision

Delegations were divided on the conclusions of the draft report on MS' assessment of compliance with the SFD (doc. 14755/1/12 REV 1 JAI 683 DAPIX 123 CRIMORG 114 ENFOCUSTOM 99 ENFOPOL 317 COMIX 558) as outlined by the Presidency.

The discussion concluded with the suggestion to reflect, once the SFD would have been fully implemented, on whether it would be well-founded to tackle both the issue of cooperation between judicial and law enforcement authorities with a view to further smoothing law enforcement information exchange and the issue of the incongruent scope of information MS are committed to share with each other.

3. Obstacles related to information exchange

The Presidency informed delegations about the outcome of the CATS discussion on the issue on 20 November (doc. 16094/12 CATS 76 DAPIX 143 ENFOPOL 370 ENFOCUSTOM 125 COMIX 638) and outlined the Presidency report (doc. 16697/12 JAI 837 CATS 80 DAPIX 148 ENFOPOL 388 ENFOCUSTOM 130 COMIX 663) to be presented to the Ministers in the margins of the Council of 6/7 December.

4. Outcome of the PCCC Conference (Brussels, 6-7 November 2012)

The Presidency presented doc. 16879/12 DAPIX 155 ENFOCUSTOM 133 ENFOPOL 393 COMIX 698 and underlined that work done in the PCCC core group would be reported to DAPIX. Fully supporting the Presidency conclusions, one delegation welcomed that they presented SIENA as an optional and not mandatory information channel for PCCCs. The Presidency suggested that IT and DE enter into bilateral meetings in order to discuss their ISEC funded PCCC projects. Furthermore, delegations welcomed the presentation of the EPE for PCCCs by the BE delegation.

5. Directive on the protection of individuals with regard to the processing of personal data

The Presidency informed that a one day meeting in September discussed four articles of the proposed Directive. Ministers would be informed on the state of play in the margins of the Council meeting of 6/7 December. The IT delegation suggested that Interpol should be invited to discussions on articles concerning Interpol.

DAPIX

1. Adoption of the agenda

The meeting adopted the agenda as set out in doc. CM 5027/12 with the following addition under AOB:

- on request of the Dutch delegation, DNA profiles of unidentified dead victims of crimes, and,
- on request of the Commission, details of the SIS II network.

2. Information from the Presidency

The Presidency reminded delegations of

- the DAPIX VRD meeting on 10 December dealing mainly with the CBE Directive;
- the DAPIX (data protection) meeting of 19/20 December dealing with the Directive on the protection of individuals with regard to the processing of personal data;
- the distribution and handling of documents marked LIMITE as suggested by the GSC in doc. 5847/06 CAB 11 GSC 13.

3. Information Management Strategy

3.1 State of play on 2nd IMS Action list 1.7.2011-31.12.2012

- Action 10: Target Information Management Architecture

After brief explanations from Europol on references made to Interpol and PCCCs in doc. 14157/12 JAI 638 DAPIX 114 CRIMORG 109 ENFOPOL 289 ENFOCUSTOM 92 and from the Commission on how the EIXM and the target IM architecture were complementary, the meeting agreed on the final document for action 10 of IMS/2. The conclusion of this action¹ would offer DAPIX a perspective to assess the relevance, need and compliance of new legal instruments and proposals for future information management tools.

¹ After the meeting, the FR delegation objected against the inclusion of PCCCs in the target management information architecture and asked for the deletion of PCCCs in the document.

3.2 Establishment of the 3rd IMS action list 1.1.2013-30.6.2014

The Presidency proposal for a 3rd IMS action list (doc. DS 1787/12) was amended in the sense that action 10 was withdrawn due to its completion as well as action 2 (data protection impact assessment) due to its redundancy once the EIXM was concluded. Agreement was reached on the additional actions for

- a manual on information exchange (doc 14745/12 DAPIX 122) under the lead of the Presidency and to the drafting of which also IT and PL would contribute;
- the EPRIS/ADEP initiative (doc. 14944/12 DAPIX 129) under the lead of FR in which FI and Europol wished to participate and for which FR called for further volunteers;
- the coordination of IM development with regard to cyber crime (doc. 14744/12 DAPIX 121) under the lead of Europol, which promised to assure coordination with other stakeholders such as the Commission directorates involved or the Interpol innovation centre in Singapore.

4. Prüm Council Decisions

4.1 Implementation - *State of play*

Delegations took note of doc. 5086/8/12 REV 8 JAI 5 DAPIX 3 ENFOPOL 5 CRIMORG 3, setting out the state of play, the lists of NCPs for counter-terrorism, major events (doc. DS 1010/2/12 REV 2, DS 1148/1/12 REV 1), the lists of NCPs for DNA, FP, VRD data exchange (see doc. DS 1037/2/12 REV 2, DS 1039/3/12 REV 3, 1009/6/12 REV 6) and were invited to complete, in particular, contact details on the 2nd step NCPs for DNA and FP data exchange in order to keep up to date the tables provided.

The Presidency reminded delegations to implement the "Prüm Decisions" without further delay in order to avoid the risk of infringement procedures as of 1 December 2014. Furthermore, the meeting took note of doc. 6661/1/09 REV1 ADD 2 COR 1 deleting a redundant phrase with regard to 2.4.3. and 2.4.4. respectively in the evaluation questionnaire on DNA data exchange.

4.2 Organisation of evaluation visits

The indicative calendar for evaluation visits (see doc. DS 1007/7/12 REV 7) was updated with regard to 2013. Delegation took note of the list of experts taking part in evaluation visits (see doc. DS 1013/5/12 REV 5, DS 1038/4/12 REV 4, DS 1012/3/12 REV 3) and were invited to submit possible changes to the GSC in order to keep up to date the information provided.

4.3 Ongoing evaluation

Sweden / revised reply to questionnaire on data protection

Delegations took note of doc. 16489/1/11 REV 1 DAPIX 139 CRIMORG 196 ENFOPOL 380.

Poland / revised reply to questionnaire on data protection

Delegations took note of doc. 6675/3/10 REV 3 DAPIX 62 CRIMORG 35 ENFOPOL 45.

Poland / DNA

The meeting approved the evaluation visit report (doc. 15756/12 JAI 754 DAPIX 138 CRIMORG 123 ENFOPOL 347 ENFOCUSTOM 111) as well as the overall evaluation report (doc. 15758/12 JAI 755 DAPIX 139 CRIMORG 124 ENFOPOL 348 ENFOCUSTOM 112) with a view to submitting the latter document together with the approved draft Council Decision (doc. 15760/12 JAI 756 DAPIX 140 CRIMORG 125 ENFOPOL 349 ENFOCUSTOM 113) to COREPER / Council for adoption.

4.4 Statistics and reports on automated data exchange for 2011

The meeting approved the revised statistics for DNA data exchange as set out in doc. 14383/2/12 REV 2 DAPIX 118. They would replace as agreed the correspondent tables in the document on statistics and reports on automated data exchange for 2011 (doc. 11367/12 JAI 436 DAPIX 81 CRIMORG 75 ENFOPOL 188) to be revised accordingly.

4.5 UMF 2 standardised forms for the Prüm hit follow up

The Europol delegate presented the proposal (doc. 16710/1 DAPIX 152) on how to streamline cross-border communication for 2nd step procedures after a Prüm hit. It was understood that the proposal was a starting point of the project with the aim of delivering a stand-alone intelligent form in early 2013 and that there was still room for improvement. MS should as a first step agree on the content of the standardised forms. The Presidency reminded delegations that further discussions in DAPIX should keep in mind the timetable for the ISEC funded project.

4.6 MCT on DNA and FP implementation

The MCT representative presented the reports on the MCT workshops concerning DNA and FP data exchange held in Wiesbaden/DE from 19 to 21 September. The MCT representative asked that the ICD guidance document (doc.16708/12 DAPIX 150) be discussed at expert level. It was agreed that only the first of the three options on how to proceed with the once agreed guidance document, i.e. the incorporation in a "best practices" document, was viable. Europol clarified with regard to the reference to the CODIS implementation in doc. 16706/12 DAPIX 149, that the Prüm helpdesk would not replace the CODIS helpdesk. Europol offered the use of its premises in The Hague if remaining technical questions were to be dealt with at MCT focus group level.

Furthermore, delegations took note of the Europol activity report on the Prüm helpdesk (doc. 16849/12 DAPIX 154). Europol was asked to distinguish in future reports messages reaching the helpdesk on MS' own initiative from those replying to inquiries from Europol.

5. Directive on the protection of individuals with regard to the processing of personal data

This point was dealt with as pt 5. of the Mixed Committee agenda.

6. Presentation of the Irish Presidency Programme

The incoming Presidency outlined its programme focused on discussions on the EIXM, the Prüm implementation and further debates on SFD. DAPIX (info exchange) plenary meetings are scheduled on 31 January, 27 March and 15 May 2013, for DNA/FP experts on 27 February 2013 and for VRD experts on 28 February 2013.

7. Any other business

According to Dutch legislation, DNA profiles of both identified and unidentified dead victims of crime are included in the DNA database. The Dutch delegation asked MS whether they would object labelling DNA profiles of unidentified dead victims of crimes as Prüm stains and compare them against MS' DNA databases in order to identify these victims. It was agreed that the issue would be discussed at expert level.

The Commission explained that with the entry into operations of SIS II expected for 31 March 2013 the maintenance of the current SISnet would cease and be replaced by a SIS II network based on sTesta. The use of this network would be restricted to SIS II data and related supplementary information between the SIRENE bureaus. The network could not be used for information exchange under the former Art. 39 and 46 of the CISA or under the Swedish Framework Decision.
