



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 24 May 2013

9811/13

**JAI 400
DAPIX 82
CRIMORG 76
ENFOCUSTOM 88
ENFOPOL 146**

I/A ITEM NOTE

from::	General Secretariat
to:	COREPER/Council
No. prev. doc.:	7226/3/13 REV 3 JAI 192 DAPIX 53 CRIMORG 39 ENFOCUSTOM 41 ENFOPOL 70
Subject:	Draft Council Conclusions following the Commission Communication on the European Information Exchange Model (EIXM)

1. On 7 December 2012, the Commission submitted the following documents:
 - the Communication on strengthening the law enforcement cooperation in the EU: The European Information Exchange Mode (EIXM),
 - the Report on the implementation of Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, in particular in combating terrorism and cross-border crime (the "Prüm Decisions"), and
 - the Study on possible ways to enhance efficiency in the exchange of police records between the Member States by setting up a European Police Record Index System - EPRIS.
2. The Working Group on Information Exchange and Data Protection (DAPIX) discussed these documents at its meeting of 31 January 2013.

3. The Presidency submitted draft Council Conclusions following the Commission Communication on the European Information Exchange Model (EIXM) to the Working Group on 27 March. They were agreed by DAPIX at its meeting of 15 May 2013.
4. COREPER is requested to invite the Council to endorse the draft Council Conclusions as set out in Annex.

**DRAFT COUNCIL CONCLUSIONS FOLLOWING THE
COMMUNICATION ON THE EUROPEAN INFORMATION EXCHANGE MODEL
(EIXM)**

THE COUNCIL OF THE EUROPEAN UNION

ACKNOWLEDGING, in line with the Stockholm Programme, that effective information exchange across the European Union is crucial to law enforcement authorities in their efforts to prevent, detect and investigate criminal activities across borders in order to ensure the security of EU citizens through co-operation between law enforcement authorities of Member States,

WELCOMES that a considerable number of initiatives in the area of criminal intelligence and information exchange have been implemented over the past years, **REQUESTS**, however, that Member States speed up the implementation and full application of all existing legal instruments for the exchange of law enforcement information,

STRESSES, that safeguarding fundamental rights, in particular the right to privacy and data protection should be a core principle in the field of law enforcement information exchange;

RECALLING that the Stockholm Programme called on the Commission to assess the need for developing a European Information Exchange Model (EIXM) based on the evaluation of the current instruments, including the so-called Swedish Framework Decision and the “Prüm” Decisions,

WELCOMES the Commission Communication on the EIXM¹ and **RECOGNISES** that the Information Management Strategy for EU internal security (IMS)² as well as the 2012 Council Conclusions on further enhancing efficient cross-border exchange of law enforcement information were taken into account for the Communication on the EIXM,

¹ Communication from the Commission to the European Parliament and the Council on strengthening law enforcement cooperation in the EU: the European Information Exchange Model (EIXM) doc. 17680/12 JAI 913 DAPIX 163 ENFOPOL 418 JURINFO 64

² doc. 16637/09 JAI 973 CATS 131 ASIM 137 JUSTCIV 249 JURINFO 145

NOTES that the EIXM Communication focuses on the mapping of the current information exchange within the EU and while no gaps in terms of legal instruments are identified, improvement of the implementation of these instruments in the Member States is encouraged,

AGREES accordingly that currently no need exists for new legal instruments for law enforcement information exchange but existing instruments should be used to their full extent and in a coherent manner;

RECALLING the 2012 assessment of the implementation of the "Swedish Framework Decision" (SFD) and conscious it has not yet reached its full potential,

UNDERLINES that the provisions of the "Swedish Framework Decision" constitute a legal obligation when replying to requests falling under its scope,

URGES Member States to fully implement the "Swedish Framework Decision" and respect the principle of availability and the principle of equivalent access for cross-border law enforcement information exchange as laid down in the Hague Programme, in particular in accordance with Article 1 and 3 of the SFD where judicial authorities are involved;

TAKES NOTE of the Commission report on the implementation of Council Decision 2008/615/JHA and of Council Decision 2008/616/JHA on implementing Council Decision 2008/615/JHA ("Prüm Decisions")³,

STRESSES the importance of effective implementation of the "Prüm Decisions" for improving European cross border exchange of law enforcement information, and therefore **WELCOMES** the overall progress made in the implementation of the "Prüm Decisions" but

³ Report from the Commission to the European Parliament and the Council on the implementation of Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime ("Prüm Decisions"), doc. 17679/12 JAI 911 DAPIX 162 CATS 85 ENFOPOL 417 JURINFO 63

While acknowledging the challenges faced by Member States not yet Prüm operational **REGRETS** the delay in the full implementation and application of the "Prüm Decisions",

CALLS on these Member States to intensify their work in regard to implementation of the "Prüm Decisions",

WELCOMES the support given by the Mobile Competence Team (MCT), which will come to an end in July 2013, and by the Prüm helpdesk at Europol, for the implementation and maintenance of biometric data exchange provisions and by EUCARIS for the implementation of the vehicle registration data (VRD) exchange provisions,

ACKNOWLEDGES that the report focusses on a description of the status quo and on the need to implement existing legislation and does not assess the need for structural changes e.g. regarding governance or design deficits of the current system before full implementation of existing legislation,

INVITES Europol, within existing resources, to continue operating the Prüm helpdesk, building upon the work carried out by the MCT and to further promote the use of the Europol Platform for Experts (EPE) established to share knowledge and expertise among national experts tasked to implement the "Prüm Decisions",

CALLS on the Prüm operational Member States to further advise Member States still in the implementation phase, to participate in the peer evaluation procedure as necessary and to cooperate with the Prüm helpdesk in order to improve the efficiency of the current Prüm information exchange,

CALLS UPON the Commission to keep on funding the implementation of the "Prüm Decisions" but in a less complex and restrictive manner, and to ensure that funding for cross-border information exchange is reflected in all elements of the Internal Security Fund in an appropriate way, including national programmes and centrally managed funds,

TASKS its competent preparatory body to define criteria in order to set up meaningful Prüm data exchange statistics in order to allow for a thorough assessment of the instrument and the added value of the information exchange,

STRESSES that although the post-hit procedures do not fall within the scope of the "Prüm Decisions", these procedures, which play an important role in the success of the instrument, need further analysis and development,

CALLS upon all parties concerned to actively participate in the development of coherent Prüm hit follow up procedures, including the UMF II standard designed, among others, to facilitate and therefore be very beneficial for the Prüm post-hit follow-up and to define the next steps required after the UMF II project has come to an end;

RECALLING the recommendation for the establishment of operational Single Points of Contact (SPOC) as "one-stop shops" to ensure consistent national coordination of cross-border information requests by integrating, to the extent possible, the relevant authorities and information exchange channels into a permanent structure on international cooperation, as laid down in the final report of the third round of Mutual Evaluations⁴, the Manual of Good Practices concerning the International Police Cooperation Units at National Level⁵ and complemented in the Commission's Communication on the European Information Exchange Model (EIXM),

UNDERScores this need to set up a SPOC with full access to the relevant data and information exchange channels where not yet done so,

RECALLING that the Stockholm Programme states that Europol should become a hub for information exchange between the law enforcement authorities of the Member States, a service provider and a platform for law enforcement services,

⁴ Doc. 13321/3/07 REV 3 CRIMORG 141 ENFOPOL 152 ENFOCUSTOM 93.

⁵ Doc. 7968/08 ENFOPOL 63

RECOGNISING the central role of national SIRENE Bureaux in effective and successful police cooperation due to formalised procedures as regards the exchange of supplementary information related to alerts stored in the Schengen Information System,

ACKNOWLEDGING the role SIENA plays as a tool for law enforcement information exchange and **UNDERLINING** the possibility to use other reliable channels of law enforcement information exchange among the Member States,

STRESSES the need of the compilation of a manual on information exchange as included in the 3rd IMS Action List,

CALLS on Member States to further consider the use of SIENA for the exchange of information within the context of police cooperation and to develop transparent national rules for the choice of the appropriate communication channel,

INVITES Europol to further enhance the SIENA application in order to provide legal, technical and organisational compatibility with both national and (other) international workflows, including those based on standard secure e-mail and case management systems,

INVITES Europol to continue to develop the concept of an information exchange platform facilitating access to information through a structured, single platform for law enforcement officers on the basis of an assessment of the business requirement at the end-user level and of the expected cost-benefit ratio;

TAKING NOTE of the study on possible ways to enhance efficiency in the exchange of police records between the Member States by setting up a European Police Records Index System (EPRIS)⁶,

SUPPORTS, in particular, its recommendation to improve the use of the existing information exchange instruments, and, wherever possible, **ENCOURAGES** the further automation of information exchange before considering the establishment of a dedicated new data system or channel,

UNDERScores its conclusion that the various systems and instruments currently used for information exchange fail to meet fully the need to rapidly locate all required police data, as identified in the EPRIS study,

INVITES the Commission to support, in the context of the IMS, Member States in their on-going efforts to close existing gaps and, after full application of available instruments, to assess if any gaps remain and propose appropriate solutions if required,

TASKS the competent preparatory body to further discuss the automation of existing data exchange processes in the framework of the Information Management Strategy (IMS);

INVITES the Member States and other stakeholders to share their experience and lessons learnt in the area of information exchange for law enforcement purposes with third countries, and to support the implementation process of EU candidate countries taking into account these findings.

⁶ Study on possible ways to enhance efficiency in the exchange of police records between the Member States by setting up a European Police Record Index System - EPRIS, doc. ST 9949/13 JAI 416 DAPIX 84 ENFOPOL 157 JURINFO 30