



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 25 April 2012**

**8390/12**

**JAI 210  
DAPIX 44  
CRIMORG 37  
ENFOPOL 88  
TRANS 114**

## **OUTCOME OF PROCEEDINGS**

of :	Meeting of the Working Group on Information Exchange and Data Protection ( <b>DAPIX</b> )
on :	28 March 2012
Subject :	Summary of discussions

### **1. Adoption of the agenda**

The agenda was adopted as set out in doc. CM 1769/12 with the information point under AOB being postponed to the following DAPIX meeting.

### **2. Information from the Presidency**

The Presidency informed about

- the next DAPIX meeting being postponed from 22 June to 26 June 2012;
- the outcome of the DAPIX VRD expert meeting of 7 March 2012;
- the agenda of the DAPIX DNA/FP expert meeting being held in parallel the same day;
- work ongoing within the LEWP, in particular on Council Conclusions on the Europol Information System (EIS);
- the EPRIS seminar on 19 April reminding the registration deadline of 10 April.

### **3. Draft Council Conclusions on ways to improve efficient and simplified exchange of law enforcement information**

Delegations discussed the draft Council Conclusions as set out in doc. 5929/12 JAI 49 DAPIX 13 CRIMORG 9 ENFOCUSTOM 7 ENFOPOL 21. The Presidency presented the proposal explaining to what extent comments made by several delegations on the preliminary draft were either taken on board or mentioned in a footnote.

Before starting the debate on specific issues, the Presidency stated that it deemed unfeasible to merge, as suggested by one delegation, the draft Council Conclusions on information exchange being currently discussed in LEWP with the draft submitted to DAPIX and explained that the texts complement each other.

Discussions focussed on rebalancing the proposed text, in particular with regard to the quoted recommendation of the ICMPD/EIXM study to promote Europol as a pivotal communication channel within the information exchange process. The Europol representative replied satisfactorily to such concerns by giving detailed explanations on Europol's mandate and its role as a cooperation partner for third countries.

The first revised version submitted by the Presidency after the lunch break took account of the comments made during the morning session. While examining this new version it was understood that "the need for further consolidating cross-border information exchange" did not mean a request for new legal initiatives but rather a strengthened application of existing instruments in the field. Delegations agreed on reminding the general implementation deadline for ex-third pillar information exchange instruments, *i.e.* 1 December 2014, adopted before the entry into force of the Lisbon Treaty. However, disagreement persisted as to the recital concerning the CBE - Directive and the request for a new implementation deadline for the "Prüm Decisions". These issues were mentioned in footnotes to be cleared at COREPER level.

Delegations were invited to definitely agree on the amended draft (doc. 5929/2/12 REV 2 JAI 49 DAPIX 13 CRIMORG 9 ENFOCUSTOM 7 ENFOPOL 21) by 2 April with a view to submitting it to COREPER for final discussion and subsequently to Council for adoption on next 26/27 April.

#### **4. Information Management Strategy**

##### **4.1 - State of play on 2nd IMS Action list 1.7.2011-31.12.2012**

Delegations took note of the state of play as set out in doc. DS 1041/1/12 REV 1.

- Action 10: Information Management Target Architecture

Member States took note of the Europol note on the relationship between IMS action points 1 and 10 as set out in doc. 7809/12 JAI 188 DAPIX 38 CRIMORG 31 ENFOPOL 75 ENFOCUSTOM 24.

Delegations were also presented a note (see doc. 7803/12 JAI 187 DAPIX 37 ENFOPOL 74 CRIMORG 30 ENFOCUSTOM 23) stating the current implementation of Europol led IMS action points, namely

- Action 4: Info Exchange Platform (IXP)
- Action 5: UMF interoperability coordination programme,
- Action 9: Guidelines for product management for info management solutions.

Concerning action 4, concerns voiced by one delegation as to what extent Interpol was participating in ongoing work on interoperability were replied by Europol stating that so far Interpol had not yet provided the inter-operability scheme of its information exchange system. Both Europol and the BE delegation called upon Member States to invite Interpol at the forthcoming regional European Interpol conference to strengthen its commitment.

- Action 6: Model for describing Prüm post hit procedures

Due to some last-minute discussions among participating Member States, the FI delegate envisaged to amend doc. 5113/12 DAPIX 4 ENFOPOL 7 CRIMORG 4 ENFOCUSTOM 8. He stressed once more that the description of the FI follow-up procedure in the document did not impose a model for other Member States but rather provides a guideline for reflections on respective national procedures.

- Action 7: Secure Information Exchange Network Application (SIENA) for PCCCs

Delegations took note of doc. 5709/1/12 REV 1 DAPIX 7 ENFOPOL 18 CRIMORG 8 ENFOCUSTOM 4 setting out the second part of action point 7. The CZ delegation informed about complementary activities regarding further information exchange channels.

#### 4.2 Information regarding the COPE 12 conference (April 2012)

The Presidency set out details of the agenda of the COPE / IMS conference organised in cooperation with Europol and the Commission. The conference to take place at Europol's headquarters in The Hague would comprise four different workshops on IMS actions regarding UMF2, PCCCs, exchange of SPOC personnel as well as future information exchange concepts and privacy by design and governance arrangements for specific information exchange mechanisms. Delegations were invited to register before 11 April 2012.

### 5. Prüm Council Decisions

#### 5.1 Implementation - *State of play*

Delegations took note of

- doc. 5086/2/12 REV 2 JAI 5 DAPIX 3 ENFOPOL 5 CRIMORG 3 on the state of play
- the lists of national contact points CT, ME, VRD (doc. DS 1010/1/12 REV 1, DS 1148/12 and DS 1009/3/12 REV 3)
- the list of experts concerning information exchange (doc. DS 1011/2/12 REV 2)

and were invited to submit possible modifications to the GSC.

The Commission explained that its official report on the Prüm implementation would be issued alongside the report on the EIXM and ideally at the same time. The Prüm report would be based on doc. 5086/12, the semi-annual report issued under PL Presidency and MCT activity reports, supplemented by information to be drawn from an envisaged questionnaire on end user aspects. Details about the EIXM expert meeting on 29 May dealing among others with Prüm questions would be given in due course. Should a special workshop on Prüm be useful it would be held before the summer break.

#### 5.2 Organisation of evaluation visits

Delegations were invited to submit possible modifications on the indicative calendar for evaluation visits (doc. DS 1007/2/12 REV 2) to the GSC .

#### 5.3 Ongoing evaluation

##### (a) **VRD**

The meeting approved with regard to **Poland** doc. 7270/12 JAI 139 DAPIX 24 CRIMORG 20 ENFOPOL 56 ENFOCUSTOM 16 with a view to submitting doc. 7464/12 JAI 161 DAPIX 28 CRIMORG 23 ENFOPOL 62 ENFOCUSTOM 18 and doc. 7465/12 JAI 162 DAPIX 29

CRIMORG 24 ENFOPOL 63 ENFOCUSTOM 19 to COREPER/Council for adoption of the latter as a I/A item at one of its next meetings.

(b) **DNA**

The meeting approved the evaluation visit report for *Estonia* (doc. 7671/12 JAI 184 DAPIX 35 CRIMORG 29 ENFOPOL 70 ENFOCUSTOM 22). The documents necessary for the Council to take the Decision on the launch of DNA data exchange would be issued after the submission of the EE declaration on national DNA analysis files.

As to the reply to the DNA questionnaire of *Belgium* (doc. 7664/12 DAPIX 34 CRIMORG 28 ENFOPOL 69), one delegation voiced concerns about inconsistent information on NCPs for the 2nd step consultation procedure in this reply and the Declaration on national DNA analysis files (see doc. 7655/12 DAPIX 33 CRIMORG 27 ENFOPOL 68), namely to renounce on such a NCP in BE but to request such a NCP in other Member States as an organisational pre-condition for mutual DNA data exchange. The delegation would make its definite approval for the official launch of DNA data exchange for BE dependent on the principle of reciprocity. The BE delegate envisaged to solve the issue.

5.4 Declaration on national DNA analysis files according to 2008/615/JHA, Art 2(3)

Delegations took note of the declarations from

- *France* (doc. 18714/11 DAPIX 169 CRIMORG 247 ENFOPOL 473),
  - *Bulgaria* (doc. 6643/12 DAPIX 17 CRIMORG 13 ENFOPOL 36),
  - *Finland* (doc. 6753/12 DAPIX 18 CRIMORG 14 ENFOPOL 41),
  - *Romania* (doc. 7043/12 DAPIX 21 CRIMORG 16 ENFOPOL 48);
- as to the declaration of
- *Belgium* (doc. 7655/12 DAPIX 33 CRIMORG 27 ENFOPOL 68), discussed the same day at expert level, see above.

5.5 MCT activity report

The meeting took note of both the activity report of the Mobile Competence Team presented by the DE delegate and the progress report on the helpdesk presented by the Europol representative.

## 5.6 Set-up of a Registration of Vehicle Number plate (RVNP) system - EUCARIS Proposal for a feasibility study

The EUCARIS representative outlined the proposal on a RVNP system feasibility study (see doc. 7229/12 DAPIX 23 CRIMORG 18 ENFOPOL 55) aiming at drawing up an inventory of components required. Technical details had already been on the agenda of VRD experts on last 7 March who concluded to invite DAPIX to decide on the launch of the study.

One delegation questioned whether DAPIX had the legal competence of ordering such a study from EUCARIS since it deemed the CBE Directive and the Prüm Decision only loosely bound to the suggested RVNP system. Underlining the usefulness of the envisaged information sharing tool for identifying foreign licence plates, the EUCARIS representative explained that the organisation acted only upon an institutionalised two step decision process, *i.e.* first the triggering request of DAPIX, second the definite decision taking at EUCARIS administration board level where all Member States are represented.

Taking account of the positive vote of VRD experts and on DAPIX discussions, the Presidency concluded that EUCARIS was requested to carry out the feasibility study.

## 6. **Implementation of Directive 2011/82/EU facilitating the cross-border exchange of information on road safety related traffic offences ("CBE" Directive)**

### 6.1 EUCARIS feasibility study on the implementation of the "CBE" Directive

Delegations discussed briefly the EUCARIS proposal amended following discussions at VRD experts level on how to develop and implement EUCARIS services to support data exchange within the CBE framework (see doc. 6467/1/12 REV 1 JAI 90 DAPIX 16 CRIMORG 17 ENFOPOL 52 TRANS 42).

The Presidency invited EUCARIS to carry out the study on the financial impact. The outcome might be on the agenda of a VRD experts meeting early September with a view to preparing the budget discussion of the EUCARIS Participants' board on 22 September.

### 6.2 Monitoring the implementation

Delegations agreed on a simple notification of the state of play in each Member State as suggested in doc. DS 1129/12.

### 6.3 Legal basis of the CBE Directive - annulment procedure

#### - Statement by the Commission

The representative of the Commission explained the court case, namely asking the Court, on the one hand, to annul the Directive as adopted because the Commission considered it had been adopted on the wrong legal basis and, on the other hand, to declare according to Art. 264 TFEU the effects of the act as definitive because the Commission challenged by no means the substance of the Directive. In case of an annulment, the act would be proposed again but on a Transport Policy legal basis.

Though no date was predictable for when the Court Decision would be taken it seemed realistic that this would not occur before the implementation deadline of the Directive, i.e. 7 November 2013.

Delegations had a short exchange of views on the pending case's impact on the implementation efforts and on the consequences for opting-out Member States such as DK, IE and UK in case of the annulment of the current legal basis.

### 7. Any other business

No issue was raised under this point.

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