



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 2 October 2012**

**14156/12**

**JAI 637  
DAPIX 113  
CRIMORG 108  
ENFOPOL 288  
ENFOCUSTOM 91  
TRANS 305  
COMIX 517**

**OUTCOME OF PROCEEDINGS**

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

on : 21 September 2012

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Subject : Summary of discussions

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**MIXED COMMITTEE**

**1. Adoption of the agenda**

The agenda was adopted as set out in CM 4010/1/12 REV 1.

**2. Swedish Framework Decision**

The Presidency presented the outcome of questionnaire CM 3406/12 and referred to some replies to be reconsidered before definitely assessing the compliance of MS with the SFD.

As to the use of forms, Member States were reminded of their agreement set out in the SFD Guidelines (see doc. 9512/1/10 REV 1 DAPIX 59 CRIMORG 90 ENFOPOL 125 ENFOCUSTOM 36 COMIX 346) that the "preferred albeit non mandatory option for requesting information" was the Form as set out in Annex II to the Guidelines.

If the use of that simplified form would not be feasible, a different form or an unstructured free-text format would be preferred which, however, must contain a list of mandatory items in order to comply with the requirements of SFD, Art. 5.

The Commission recalled that question No. 2 focussed on how MS ensure the compliance with the provisions of SFD, Art. 3(3), in respect of the principle of availability. Some delegations stressed that more allowance should be made for the fact that daily police work already effectively applies the principle of availability rather than to the need of formally transposing the SFD into national legislation.

The Presidency invited those MS which have not yet replied or intend to revise their replies to do so by 30 September. A complete picture by then would allow to clear the issues at stake before the upcoming DAPIX meeting and provide input to the draft Council Conclusions on information exchange to be submitted to the Council at next 6/7 December.

## **DAPIX**

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

The agenda was adopted as set out in CM 4010/1/12 REV 1 with the addition of information points under AOB on the state of play of the Visa Information System (VIS) on request of the SE delegation and on the amended proposal of the EURODAC Regulation on request of the Presidency.

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

The meeting was briefed on

- the Presidency priorities;
- the outcome of the DNA/FP and VRD subgroup meetings<sup>1</sup>;
- discussions scheduled for 26 September and in December in the data protection part of DAPIX on the draft Directive on the protection of individuals with regard to the processing of personal data by law enforcement authorities;

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<sup>1</sup> Note from the Secretariat: see documents 13651/12 JAI 591 DAPIX 99 CRIMORG 92 ENFOPOL 263 and 13869/12 JAI 620 DAPIX 108 CRIMORG 103 ENFOPOL 277 TRANS 315

- organisational issues concerning the PCCC conference in Brussels on 6/7 November for which invitations were sent out by the GSC;
- the expert meeting of 6 July 2012 on ways to improve information exchange on travelling violent offenders (TVO) the final report on which is expected from the Commission for the end of October and which DAPIX should discuss at its last meeting of this year;
- the DAPIX meeting schedule, *i.e.* plenary meetings on 17 October and 3 December and a VRD subgroup half-day meeting dedicated to the CBE Directive on 10 December.

### **3. Information Management Strategy**

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

The Presidency invited delegations to inform the GSC about changes of doc. DS 1041/3/12 REV 3 in order to regularly update the overview.

- **Action 3: Infopolex Coordination Initiative**

The HU delegate briefed about progress made and was confident that the Commission would shortly sign the grant agreement mentioned in doc. 13870/12 DAPIX 109 ENFOPOL 278 CRIMORG 104 ENFOCUSTOM 88. With regard to SPOCs, one delegation suggested to carry on examining the issues of best practices and mutual exchange of personnel in line with the previous Presidency. Delegations were invited to send in written comments to [infopolex@nebek.police.hu](mailto:infopolex@nebek.police.hu) by 12 October.

- **Action 6: Overview of the national Prüm post-hit procedures**

The FI delegate outlined the replies to questionnaire CM 3456/12 (doc. DS 1606/12) and stressed that more explanations on procedures and, in particular, on investigation success reporting for the sake of filtered match statistics would be searched for. He mentioned that these issues would be discussed by experts at a seminar with the Prüm helpdesk at Europol in The Hague on 26 September. SE underlined the general importance of this IMS action and asked therefore to invite not only operational but also not yet operational MS to the seminar. Europol confirmed that it would search to organise the seminar to the benefit of all interested delegations.

- Action 10: Target Information Management Architecture

Europol informed delegations that the document was ready and would be sent out in the coming week. Delegations were invited to provide comments in writing by 7 October. The document would then be revised in order to be discussed at the upcoming DAPIX meeting in October.

Furthermore, the Europol delegate briefed on progress made on

- Action 4: Info Exchange Platform, to be finalised by the end of 2012 , where the biggest challenge remained to identify long-lasting governance structures in terms of funding and MS involvement;
- Action 5: UMF Interoperability Coordination Programme, to be finalised by the end of 2013, where discussions continued on which model should be used and where pilots were being prepared with regard to the Prüm follow-up and the interlinking of national search capacities with Europol and Interpol databases to enable simultaneous searches across the systems;
- Action 9: Guidelines for product management, which was on hold as no MS indicated by now to participate in the project.

### 3.2 Establishment of 3rd IMS Action list 1.1.2013-30.6.2014

After the presentation of the replies to questionnaire CM 3405/12 (doc. DS 1600/12) the Presidency outlined three specific suggestions, i.e.

- the initiative for a further automation of data exchange processes (ADEP), the technical parts of which were orally presented by the FR and preliminarily discussed by delegations;
- the drawing up of a manual on information exchange;
- the setting up of an overview on information management with regard to combating cybercrime as suggested by Europol.

Documents spelling out details of these actions would be submitted to the forthcoming DAPIX meeting.

#### 4. Prüm Council Decisions

##### 4.1 Implementation - *State of play*

The Presidency congratulated HU for the adoption of the Council Decisions on the launch of the exchange of DNA and FP data respectively. Furthermore, the Chair informed delegations that CY meanwhile completed the legal implementation of the Prüm Decisions at national level. Consequently, taking account of the technical evaluation reports on DNA and FP data exchange approved by DAPIX in last December, the corresponding draft Decisions on the launch of data exchange in Cyprus could be submitted to the Council for adoption.

Delegations took note of doc. 5086/6/12 REV 6 JAI 5 DAPIX 3 ENFOPOL 5 CRIMORG 3 and were invited to submit possible modifications to the GSC (prum@consilium.europa.eu) in order to provide a reliable overview of the state of play.

##### 4.2 Organisation of evaluation visits

The meeting welcomed the updates to the indicative calendar for evaluation visits with regard to PL, MT and DK to be included in a revised version of doc. DS 1007/5/12 REV 5.

##### 4.3 Adjustment of NCP lists

The Presidency invited delegations to align as soon as possible the list of Prüm NCPs for major events with the list of permanent contact points pursuant to Article 3(b) of Joint Action 97/339/JHA set out in doc. 12381/1/12 REV 1 ENFOPOL 229 in order to have one single and public list of contact points regarding cooperation for security management of major events. Updates should be sent both to prum@consilium.europa.eu and lewp@consilium.europa.eu.

##### 4.4 Ongoing evaluation

###### ***Sweden / VRD***

The meeting approved the evaluation visit report (doc. 11349/12 JAI 427 DAPIX 71 CRIMORG 65 ENFOPOL 178 ENFOCUSTOM 51) as well as the overall evaluation report (doc. 11350/12 JAI 428 DAPIX 72 CRIMORG 66 ENFOPOL 179 ENFOCUSTOM 52) with a view to submitting the latter document together with the draft Council Decision (doc. 11352/12 JAI 429 DAPIX 73 CRIMORG 67 ENFOPOL 180 ENFOCUSTOM 53) to COREPER /Council for adoption. The BE delegate explicitly welcomed the work flow organisation within the SE NCP for VRD as an exemplar of good practice.

## ***Malta***

The meeting took note of the replies to the questionnaire on respectively data protection (doc. 13649/12 DAPIX 103 CRIMORG 98 ENFOPOL 270), DNA data exchange (doc. 13650/12 DAPIX 104 CRIMORG 99 ENFOPOL 271) and dactyloscopic data exchange (doc. 13651/12 DAPIX 105 CRIMORG 100 ENFOPOL 272).

### 4.5 Prüm statistics and reports on automated data exchange for 2011

- state of play

The meeting took note of the modified model for DNA match statistics set out in doc. DS 1597/12. Scrutiny reservations were introduced by delegations not present at previous discussions at expert level. Upon intervention of one delegation with regard to procedural concerns, the meeting agreed on this model as a temporary measure for 2011. Further discussions at expert level on solutions for DNA statistics were expected for the future whereas decisions on the definite model were to be taken by the DAPIX plenary. The Presidency reminded delegations to submit new figures by 15 October 2012 in order to conclude on statistics for 2011.

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

- state of play

Delegations took note of doc. 6467/2/12 REV 2 JAI 90 DAPIX 16 CRIMORG 17 ENFOPOL 52 TRANS 42 and of the fact that no news were available as to the pending case court. Briefing on the expert group established to support the implementation of the CBE Directive, the Commission confirmed that DAPIX was responsible for that implementation. Like at the VRD subgroup meeting, the Presidency expressed misgivings as to the expert group meeting of last 20 July. Without prejudice to the Commission's constitutional right to prepare delegated acts and to convene expert groups to that end, the Presidency stated that the CBE expert group was prematurely created and had extended its agenda beyond the discussion of Annex I of the CBE.

## **6. Conference on PCCC (Brussels, 6-7 November 2012)**

The Presidency briefed about the Third Police and Customs Cooperation Centres (PCCC) Conference for which the invitation had been sent out to DAPIX and LEWP by the GSC on 20/21 September.

## **7. Any other business**

- **VIS Decision on access of law enforcement authorities and Europol (2008/633/JHA)**

In June, MS were informed by the Commission that Council Regulation (EC No 767/2008) had entered into force. The SE delegation focussed on the procedural approach for the Council to determine, pursuant to Council Decision 2008/633/JHA, Art. 18, the date when the VIS Decision should take effect. Delegations were informed that by 10 September only 20 Member States and Europol notified to the Commission their designated authorities and central access points. Due to the incomplete notifications, the dates were not yet fixed neither for the publication of notifications in the OJ nor for the Council to decide on the date when the Decision would take effect.

- **Eurodac / Prüm**

The Chair of the Asylum Working Group explained that the amended EURODAC proposal (doc 13557/12 EURODAC 18 CODEC 2084 ENFOPOL 262) broadened the scope of the Regulation by providing MS' law enforcement authorities access to EURODAC, although under certain conditions. According to Art. 20 of the draft Regulation, law enforcement authorities were only entitled to compare fingerprint data with EURODAC data when comparisons both with the national databases of the Member State and with the automated fingerprint databases of other Member States under the "Prüm Decisions" did not lead to the identification of the data subject.

Welcoming the concept of the access to EURODAC as the solution of last resort, one delegation voiced concerns that this provision could lead to a critical increase of Prüm FP requests and referred to the limited capacities of the Prüm research system.