



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 19 October 2012

15143/12

**JAI 713
DAPIX 132
CRIMORG 117
ENFOPOL 331
ENFOCUSTOM 101
COMIX 587**

OUTCOME OF PROCEEDINGS

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

on : 17 October 2012

Subject : Summary of discussions

MIXED COMMITTEE

1. Adoption of the agenda

The agenda was adopted as set out in doc. CM 4685/12.

2. Swedish Framework Decision (SFD)

Delegations welcomed the draft report on the assessment of MS' compliance with the SFD (doc. 14755/12 JAI 683 DAPIX 123 CRIMORG 114 ENFOCUSTOM 99 ENFOPOL 317 COMIX 558) as prepared by the Presidency on the basis of questionnaire CM 3406/12. MS agreed that since the Decision is a legal framework and not an information tool, quantitative statistics on the "use" of the SFD would deviate attention from the main goal of the SFD, *i.e.* the implementation of the principle of availability.

The conclusions of the report as amended in the light of discussions would take into account recommendations on scrutinising in future, on the one hand, the structural implementation of the principle of availability at domestic level and, on the other hand, the impact on time limits where judicial authorities are implied. Furthermore, the conclusions would mention the dilemma of law enforcement information being defined as judicial information as the main outstanding issue for the transposition of the SFD into national legislation in some Member States.

Delegations were invited to further improve their replies or comment in writing by 31 October to allow the Presidency the submission of the report to the Council in December.

DAPIX

1. Adoption of the agenda

The agenda was adopted as set out in doc. CM 4685/12 with the addition of an information point under AOB on the outcome of the Salzburg Forum Ministerial Conference on request of the HU delegation.

2. Information from the Presidency

The meeting was briefed on the state of play of discussions on the proposal for a Directive on the protection of individuals with regard to processing of personal data. Delegations were reminded

- to enlist for the PCCC Conference in Brussels on 6/7 November by 20 October,
- to submit to the Commission information requested pursuant to Art. 8 of Directive 2011/82/EU (CBE Directive) by 15 November,
- to reply to DS 1592/12 on the adjustment of NCP lists regarding major events security management by 31 October,
- of the DAPIX calendar, *i.e.* 3 December for the plenary and 10 December for the VRD meeting,

3. Information Management Strategy

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

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

The Europol delegate presented the outcome of the seminar on Prüm hit follow-up (The Hague, 26 September 2012) in which 14 MS as well as the Commission and the MCT participated.

After discussing the national and international workflow as well as the post hit content to exchange, participants of the seminar focussed on forms to standardise the follow-up information that should be kept as simple as possible. MS concerned were invited to reply to Europol on the issue of forms by 5 November.

The FI delegate briefed on the outcome of questionnaire DS 1606/12 which aimed at describing DNA hit follow-up action to be expected from Prüm partners. The results of the survey showed that not all MS replied so far and that responses were mainly from a forensic lab point of view.

Answers, unfortunately, were not comparable with each other and no feedback from an investigation point of view was given. The questions on whether the descriptions on procedure should be continued and whether feedback from investigation and judicial authorities should be searched remained open.

The Presidency invited delegations concerned to reply by 31 October to allow the FI delegate to conclude the action point.

- Action 10: Target Information Management Architecture

The meeting took note of the presentation of doc. 14157/12 JAI 638 DAPIX 164 CRIMORG 109 ENFOPOL 289 ENFOCUSTOM 92 on the draft vision on EU law enforcement information architecture. It was confirmed by Europol and the Commission that work on the EIXM and the draft vision had been closely coordinated and that the outcome has to be seen as a result in the framework of the IMS. Delegations were invited to comment in writing by 7 November to prepare discussions of the topic at the next meeting.

3.2 Establishment of 3rd IMS Action list 1.1.2013-30.6.2014

- Manual on information exchange

The Presidency presented the proposal as set out in doc. 14745/12 DAPIX 122 and suggested that the Presidency take the lead and not more than 10 delegations participate in the project. The proposal was welcomed, in particular with regard to the mapping of NCPs, and it was suggested to extend the content in order to establish an exhaustive manual. After FR indicated to actively support the project, the Presidency invited further delegations to indicate their willingness to participate in the project by 31 October.

- **EPRIS / ADEP**

The FR delegate presented the EPRIS / ADEP initiative as set out in doc. 14944/12 DAPIX 129 and supported by FR, FI and HU. No unanimous agreement was reached on the proposal and some delegations among those which, in principle, supported the initiative suggested to wait for the outcome of the Commission study on EPRIS. The Commission recognising the functional needs explained in the note, pointed out its reservation on the recommended decentralised architecture of the system and suggested, on the contrary, information exchange via the Europol Information System (EIS).

- **Cybercrime**

The Europol delegate presented doc. 14744/12 DAPIX 121 on the Coordination of IM development, notably in the area of cybercrime and cyber-security. Upon request, the Europol delegate considered, indeed, DAPIX as the appropriate group to work on that issue and explained that Europol was in close contact with ENISA to work on that subject. One delegation suggested to wait for the establishment of the high level group on cybercrime. The Europol delegate promised to come back at the next meeting to outstanding questions on the meaning of the term "law enforcement information management" with regard to cybercrime and to the objective of involving law enforcement authorities of two or more MS.

Concluding discussions on drafting a 3rd IMS action list, the Presidency promised to take into account the suggestions set out in doc. DS 1600/1/12 REV, *i.e.* to carry on with not yet completed actions of the second list and to include the three projects presented. However, agreement on the definite action list should be reached after the publication of the Commission Communication on information exchange to be expected in December.

4. Prüm Council Decisions

4.1 Implementation - *State of play*

4.2 Organisation of evaluation visits

Delegations took note of doc. 5086/7/12 REV 7 JAI 5 DAPIX 3 ENFOPOL 5 CRIMORG 3 as well as of the indicative calendar (doc. DS 1007/6/12 REV 6) and the lists of experts taking part in evaluation visits (see doc. DS 1013/4/12 REV 4, DS 1038/3/12 REV 3).

Delegations were invited to submit possible modifications to prum@consilium.europa.eu.

4.3 Ongoing evaluation

Estonia / Fingerprints

The meeting approved the evaluation visit report (doc. 14274/12 JAI 650 DAPIX 115 CRIMORG 110 ENFOPOL 294 ENFOCUSTOM 94) as well as the overall evaluation report (doc. 14276/12 JAI 652 DAPIX 116 CRIMORG 111 ENFOPOL 295 ENFOCUSTOM 95) with a view to submitting the latter document together with the approved draft Council Decision (doc. 14277/12 JAI 653 DAPIX 117 CRIMORG 112 ENFOPOL 296 ENFOCUSTOM 96) to COREPER / Council for adoption.

Lithuania / VRD

The meeting approved the evaluation visit report (doc. 13610/12 JAI 596 DAPIX 100 CRIMORG 93 ENFOPOL 264 ENFOCUSTOM 81) as well as the overall evaluation report (doc. 13611/12 JAI 597 DAPIX 124 CRIMORG 94 ENFOPOL 265 ENFOCUSTOM 82) with a view to submitting the latter document together with the approved draft Council Decision (doc. 13612/12 JAI 598 DAPIX 125 CRIMORG 95 ENFOPOL 266 ENFOCUSTOM 83) to COREPER / Council for adoption.

4.4 Prüm statistics and reports on DNA matches for 2011 - state of play

Presenting the updated DNA match statistics as set out in doc. 14383/1/12 REV 1 DAPIX 118, the Presidency pointed out still existing discrepancies. Delegations concerned were invited to bilaterally rectify statistical problems and submit new figures to prum@consilium.europa.eu by 31 October so that a complete report on Prüm statistics could be prepared for the Council in December.

As to the outstanding question of "unfiltered" or "filtered" statistics, the latter meaning that only results that could aid an investigation are presented in match statistics, the Commission suggested as a compromise proposal to identify at least hits which lead to an investigation.

4.5 Report on the MCT seminar on DNA and FP implementation

The DE delegate informed that the conclusions on the seminar would soon be adopted and submitted to delegations.

4.6 Europol Prüm helpdesk - AFIS test infrastructure

The Europol delegate briefed about the increasing activity of the Prüm helpdesk. Delegations strongly supported the idea of establishing a Prüm AFIS test infrastructure at the Prüm helpdesk as set out in doc. 14918/12 DAPIX 127 ENFOPOL 327. The Europol delegate informed that no specific budget request was necessary for that task.

5. Preparation of Council debate on Law Enforcement Information Exchange

The Presidency explained its intention to organise a Council debate on 6/7 December. The discussion should be held in the light of both the amended report (doc. 14755/12) on the SFD implementation and the Commission Communication on law information exchange expected to be published in December. The discussion should focus on two topics, i.e.

- whether the SFD achieved its goal or more would be needed, and
- the engagement of MS to speed up the Prüm implementation process and whether a Prüm-like information exchange should be extended to further data categories.

The Commission considered such a Council debate premature since it would have great difficulties to table the Communication in time before the Council meeting.

After a short discussion, delegations were invited to further comment the issue of a Council debate and to submit suggestions for topics of the debate by 31 October to the Presidency and dapix@consilium.europa.eu.

6. Any other business

The HU delegate outlined the outcome of the Salzburg Forum Ministerial Conference in Mátráhaza, Hungary on 10/11 October, in particular on the agreement on facilitating cross-border enforcement of road safety related traffic offences (doc. 14921/12 JAI 696 ENFOPOL 328 CRIMORG 116 SCHENGEN 68 JAIEX 86 DAPIX 131 TRANS 340 COMIX 566).