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DAPIX 132
CRIMORG 76
ENFOPOL 171
ENFOCUSTOM 96
JAI 327

'I/A' ITEM NOTE

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| From: | General Secretariat of the Council |
| To: | Permanent Representatives Committee (Part 2)/Council |
| No. prev. doc.: | 13526/16 |
| Subject: | Draft COUNCIL IMPLEMENTING DECISION on the automated data exchange with regard to dactyloscopic data in Slovakia, Bulgaria, France, Czech Republic, Lithuania, the Netherlands, Hungary, Cyprus, Estonia, Malta, Romania and Finland and replacing Decisions 2010/682/EU, 2010/758/EU, 2011/355/EU, 2011/434/EU, 2011/888/EU, 2012/46/EU, 2012/446/EU, 2012/672/EU, 2012/710/EU, 2013/153/EU, 2013/229/EU and 2013/792/EU |

1. By its judgment of 22 September 2016 in Joined Cases C-14/15 and C-116/15, the Court of Justice annulled Council Decisions 2014/731/EU, 2014/743/EU and 2014/744/EU on the launch of automated data exchange with regard to Vehicle Registration Data (VRD) in Malta, Cyprus and Estonia, because those Decisions were adopted on the basis of Article 25(2) of Council Decision 615/2008/JHA and consequently vitiated by two procedural defects, that is, on the one hand, a unanimity requirement for those Decisions and, on the other hand, a lack of consultation of the European Parliament.
2. Council Decisions 2010/682/EU, 2010/758/EU, 2011/355/EU, 2011/434/EU, 2011/888/EU, 2012/46/EU, 2012/446/EU, 2012/672/EU, 2012/710/EU, 2013/153/EU, 2013/229/EU and 2013/792/EU, adopted on the basis of Article 25(2) of Council Decision 615/2008/JHA, are consequently vitiated by the same procedural defects.

3. At its meeting on 18 October 2016, the Working Group on Information Exchange and Data Protection (DAPIX) approved the draft Council Implementing Decision, based on Article 33 of Council Decision 2008/615/JHA, on the automated data exchange with regard to dactyloscopic data in Slovakia, Bulgaria, France, Czech Republic, Lithuania, the Netherlands, Hungary, Cyprus, Estonia, Malta, Romania and Finland and replacing Council Decisions 2010/682/EU, 2010/758/EU, 2011/355/EU, 2011/434/EU, 2011/888/EU, 2012/46/EU, 2012/446/EU, 2012/672/EU, 2012/710/EU, 2013/153/EU, 2013/229/EU and 2013/792/EU.
4. As required by the applicable Treaty provisions, the Council decided on 13 December 2016 to consult the European Parliament on the above draft Council Implementing Decision, as reviewed by the lawyer linguists and set out in 13526/16 JAI 857 DAPIX 183 CRIMORG 134 ENFOPOL 360 ENFOCUSTOM 169.
5. The European Parliament gave its opinion on 5 April 2017.
6. *On this basis, COREPER is requested to invite the Council to adopt as an "A" item on its agenda the draft Council Implementing Decision on the automated data exchange with regard to dactyloscopic data in Slovakia, Bulgaria, France, Czech Republic, Lithuania, the Netherlands, Hungary, Cyprus, Estonia, Malta, Romania and Finland and replacing Council Decisions 2010/682/EU, 2010/758/EU, 2011/355/EU, 2011/434/EU, 2011/888/EU, 2012/46/EU, 2012/446/EU, 2012/672/EU, 2012/710/EU, 2013/153/EU, 2013/229/EU and 2013/792/EU, as set out in 13526/16 JAI 857 DAPIX 183 CRIMORG 134 ENFOPOL 360 ENFOCUSTOM 169.*