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DAPIX 133
CRIMORG 77
ENFOPOL 172
ENFOCUSTOM 97
JAI 328

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. prev. doc.:	13525/16
Subject:	Draft COUNCIL IMPLEMENTING DECISION on the automated data exchange with regard to DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium and replacing Decisions 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU, 2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/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 the 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 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU, 2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/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 DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium and replacing Council Decisions 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU, 2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/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 13525/16 JAI 856 DAPIX 182 CRIMORG 133 ENFOPOL 359 ENFOCUSTOM 168.
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 DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium and replacing Council Decisions 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU, 2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/EU, as set out in 13525/16 JAI 856 DAPIX 182 CRIMORG 133 ENFOPOL 359 ENFOCUSTOM 168.*