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From: Presidency
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- Presidency progress report

1. Introduction

The importance of law enforcement information exchange, and in particular of the automated data exchange provided for by Council Decision 2008/615/JHA, has been underlined over the past 18 months. Both political and operational level recognised the great added value of the Prüm cooperation and became aware of the opportunities it offers in the fight against cross-border crime and terrorism. The Prüm Workshop, organised by the Commission in Brussels on 19 January 2017, offered Member States the opportunity to highlight both the state of play and the challenge to conclude the implementation the Prüm Decisions.

The implementation of the Decisions remains the core business of the Working Party on Information Exchange and Data Protection (DAPIX), which mainly endeavours to remedy pragmatically the day-to-day problems Member States encounter when working with the Prüm data exchange procedures. The need to comply with the technical provisions set out in the implementing Decision (2008/616/JHA) was extensively discussed and although technical problems were already sorted out to a great extent over the past years, some Member States still struggle with the basic implementation of the Decision. The Commission is scrutinising the reasons for this delay.

However, expeditious law enforcement across borders will only be yielded when implementing the Prüm Decisions not only in a narrow sense, that is tackling information technology issues, but also in a wider sense, that is by establishing smooth follow-up procedures in the Member States. Workflows along the lines of the national legislation that facilitate cross-border information exchange after an initial data match will be a permanent topic on future DAPIX agendas.

2. Results achieved regarding the implementation of the Prüm Decisions

2.1 State of play of the implementation of automated data exchange

A Manual (5081/2/17), which sets out the procedures of the Prüm implementation and factual information provided by the Member States on the state of play, is kept up to date by the GSC and regularly submitted to DAPIX. By the end of the first semester 2017, 24 Member States will be operational for automated data exchange regarding DNA, 22 regarding FP, and 23 regarding VRD. In addition, a considerable number of new bilateral connections between operational Member States have been established.

Since the previous progress report (9823/16), five evaluation visits on the terms of the launch of automated data exchange were carried out and subsequently discussed by DAPIX, namely in UK on DNA, in PT and EL on FP, in CZ and HR on VRD. As a follow-up:

- the consultation of the European Parliament on the Council Implementing Decision for HR regarding VRD exchange has been completed on 18 May 2017 and it is expected that the Council will proceed to the adoption of the final Decision before the summer break, so that HR will be the 23rd Member State participating in VRD exchange;

- following the adoption of the respective Council Conclusions, the consultation of the European Parliament on the Implementing Decisions for CZ, PT and EL is expected to start in the first semester 2017;
- the evaluation visit of PT with regard to VRD has been scheduled and in case of a positive outcome, the decision making can be expected to be completed by the end of this year.

DK has fully implemented the obligations imposed by the Prüm Decision and has declared its willingness to immediately apply the Decision in their relation with those Member States which have given the same notification (8170/17).

The judgment of 22 September 2016 of the European Court of Justice in Joined Cases C-14/15 and C-116/15 referred to a series of procedural defects in the Council's decision taking regarding the launch of automated data exchange. In order to remedy these defects, the Council adopted on 18 May 2017, after consultation of the European Parliament, the Implementing Decisions, replacing the Council Decisions prior to the above judgment, with regard to

- VRD for MT, CY and EE;
- FP for LV;
- DNA for SK, PT, LV, LT, CZ, EE, HU, CY, PL, SV, MT, BG;
- FP for SK, BG, FR, CZ, LT, NL, HU, CY, EE, MT, RO, FI;
- VRD for FI, SI, RO, PL, SV, LT, BG, SK, HU.

As to the speeding up of the implementation process, the Presidency proposed to reflect on timelines per Member State, including a deadline for complete interconnectivity of the relevant national databases (5331/17). Instead of agreeing on compulsory timelines, Member States preferred to continue to do the utmost in the framework of their possibilities to fully implement Prüm.

2.2 Participation of the Swiss confederation and the Principality of Liechtenstein in the "Prüm Decisions"

On 11 May 2017, the Commission started negotiations for the conclusion of agreements between the EU, on the one hand, and CH and LI, on the other hand, on the application of certain provisions of the "Prüm Decisions". The Commission regularly updates DAPIX by means of oral reports on the state of play of these negotiations.

2.3 Prüm statistics 2016

The General Secretariat provided a compilation of the Prüm statistics for 2016 concerning the automated exchange of the tree data types. The statistics showed again an increase of data exchange. The compilation was submitted to DAPIX meeting of 4 April 2017. Compared to the previous year, the current statistics gave no particular reason for discussion.

2.4 Action Plan on European Forensic Science Area (EFSA)

Action 6 of the "Action Plan on the Way Forward in View of the Creation of a European Forensic Science Area (EFSA)" (8770/16) aims to support the implementation of the Prüm automated data exchange, and to improve the quality of forensic data exchanged between the Member States. DAPIX discussed specific topics (5177/17) to reach these objectives along the lines of seven suggested actions:

- (1.) The **monitoring of the Prüm implementation** from a legal and technical point of view remains the core business of DAPIX. Progress is regularly noted in the Manual mentioned above. Possible specific problems will be dealt with in the technical subgroups if need be.
- (2.) **Obstacles encountered in the day-to-day Prüm application** (6854/16) were traced back to problems of either technical or political/administrative nature which should be tackled at national level. The handling of difficulties arising from the Prüm post-hit information exchange was dealt with within the framework of action 6 of the Information Management Strategy (IMS) (see below).

- (3.) **Minimising the risk of follow-up information exchange in the case of false positive DNA matches** needs compliance with the "second step" evaluation as provided for by Decision 2008/616/JHA to establish the evidential value of a match. Among the possibilities to reduce the risk to proceed with false positive matches, several options were made in 5177/17, which called upon each Member State to use the option which fits best in its national workflow.
- (4.) To foster the **exchange of experience in the implementation and on-going operation**, a manual on best Prüm practices will be drafted. Structure and content of the manual as well as the establishment of a drafting group consisting of DAPIX delegates are still under discussion. The drafting would need the involvement of the incoming Presidencies.
- (5.) The **mutual prompt notification in the event of unavailability of the Prüm application** will be done in writing in an electronic form without the need to use a specific template (9058/17). Furthermore, the activities mentioned under (4.) and (5.) were part of a German project proposal (DNA fEUision) presented to the DAPIX at its meeting of 15 October 2015. The DE delegation asked the Commission for reviewing its decision on the funding of the project (9499/17).
- (6.) As to the **streamlining of the DNA or fingerprint data exchange**, a number of ideas were mentioned in 5102/17 and are still under discussion.
- (7.) **Improving Prüm follow-up procedures** have already been dealt with this issue. It has been suggested to focus future discussions on defining timelines to reduce the delay between a match report and the reply to a follow-up information request.

2.6 Prüm specific training schemes

Defining CEPOL training schemes to raise awareness on the impact of the Prüm Decisions among law enforcement officers was the objective of a Presidency survey (5102/17). The outcome of this quantitative assessment is set out in 6807/1/17 REV 1.

2.7 Prüm Decisions and Information Management Strategy (IMS)

IMS action No 6 on Prüm DNA post-hit procedures has been completed. The final outcome is set out in 14310/2/16 REV 2, which has been discussed by DAPIX. The action built upon and complemented the outcome of the ISEC funded project "Developing the exchange of DNA data and the related post-hit information exchange under the Prüm Decision".

The particular aim was to identify best practices to manage the post-Prüm hit communication process and to enhance information sharing with Europol. The concluding remarks set out **proposals for good practices regarding information exchange following a Prüm hit procedures:** Each Member State was encouraged to draft instructions for their SPOCs and law enforcement units regarding replies and outgoing requests in the light of the principle of availability of information and timely access to information.

3. Way forward

The report submitted aims to inform delegations about the state of play of the implementation of the Prüm Decisions and about other related discussions. The Presidency invites delegations to take note of this Prüm progress report at the DAPIX meeting of 29 May 2017.