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DAPIX 315

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 2 October 2017
To: Working Party on Information Exchange and Data Protection (DAPIX)
Subject: Summary of discussions

1. Adoption of the agenda

The agenda was adopted as set out in CM 3842/2/17 REV 2.

2. Information from the Presidency

Delegations were informed:

- about the outcome of recent COSI discussions on both proportionate police checks and police cooperation in the Schengen area, and on assessing operations in line with chapter 5 of Council Decision 2008/615/JHA; on the latter, the Commission is planning to launch early next year a feasibility study, which very likely would lead to a legislative proposal on a revised Prüm framework;
- that the next DAPIX meeting had been postponed from 28 to 30 November 2017.

3. Monitoring of the implementation of Directive (EU) 2016/681 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

3.1 Update on the Informal Working Group on PNR (IWG PNR)

The morning session largely reflected the activities of the IWG PNR and the main topics of the Berlin meeting on 20/21 September 2017 (12329/17), which were presented by the group's current chair (DE). In its conclusions, the IWG PNR recommended that:

- regarding the choice of channel for cross-border information exchange, DAPIX discuss whether SIENA could play a pre-eminent role regarding the communication between passenger information units (PIU), and
- that the Commission keep DAPIX informed on the relationship between the PNR and API¹ directives and the plans to amend the latter.

Welcoming work done by the IWG PNR, delegations pointed out the distinct characteristics of PNR and API (Advance Passenger Information) data in view of data quality and legal purposes, and emphasized the need to reflect carefully on the handling of API data under the PNR umbrella. Furthermore, DE informed about a mapping exercise launched by EUROPOL in order to set up a clear overview on the SIENA deployment in the Member States. Several delegations urged conclusive discussions on the PIU/PIU communication channel as early as possible.

¹ Council Directive 2004/82/EC of 29 April 2004 on the obligation of carriers to communicate passenger data, OJ L 261/24, 6.8.2004

3.2 Final report of PNRDEP (PNR data exchange pilot)

Delegations took note of the final report (10879/17) of the PNRDEP project, that state of play of which was regularly reported to DAPIX by the HU delegation in the framework of the Information Management Strategy (IMS). The report set out that a slightly modified SIENA can be used both for EUOPOL/PIU- and PIU/PIU-PNR data exchange; another option for PNR data exchange would be the development of a SIRENE like solution. The report recommended that any further steps to develop PNR data exchange take into account the findings of the PNRDEP project.

3.3 Update on the Advance Information Working Group (AIWG)

The FRONTEX representative briefed delegations on ongoing activities in both the small and plenary AIWG to develop pragmatic guidelines on how to build a traveller risk analysis capacity for EU external border management purposes. The first advance information package, which takes account of API data as one of the available traveller intelligence sources, is expected to be finalised in I/2018.

Apart from terminology issues, delegations voiced mainly concerns about the exclusion of PNR data in AIWG traveller risk analyses although the expected guidelines were meant to be of benefit for law enforcement authorities as well. FRONTEX justified its methods and informed furthermore that Member States could get detailed information on the outcome of the AIWG plenaries through intermediary of their national contact points.

3.4 Management summary ISF-project "PIU.net"

Delegations took note of the NL presentation of the management summary along the lines of the PIU.net project (12497/17). The project, which would last 14 months from November 2017 to December 2018, would aim at a technical solution for interoperability between PIUs and was considered a continuation of PNRDEP.

3.5 PNR implementation issues

The Commission

- informed briefly, in advance of the 6th meeting on the implementation of the PNR directive organised by the Commission the following day, of the implementation process by Member States, recalling the indicative milestones mentioned in the Commission's Implementation Plan (in particular the adoption of relevant legislation, the development of the IT solution for the PIU and the engagement with air carriers
- underlined that API and PNR data should reinforce each other, as the accuracy of API data can counterbalance the fact that PNR data are unverified, and reminded that no obligation to collect API data can be inferred from the PNR directive;
- informed that a Communication on the need to revise the API directive was to be expected by the end of this year, a feasibility study for an interactive API is to be carried out (results expected by Q2 2018), and a possible legislative proposal to amend the API directive later on;
- explained that the Court's recent opinion on the envisaged EU-Canada PNR agreement has no impact on the legal obligation of the Member States to transpose the PNR directive into national law.

3.6 Way forward

Summarising the outcome of discussions on how to continue work on the PNR file (11378/17), the Presidency informed that delegations

- had confirmed the role of DAPIX to address implementation issues at political level when intervention would be needed for a coordinated approach,
- had underlined to avoid duplication of efforts, meaning that IWG PNR should discuss technical questions in detail and that its chair should report regularly to DAPIX on its work while the Commission should report on the overall state of play against the background of the indicative implementation milestones,

- had recommended to stick to the Commission's interpretation of legal issues as the line to take,
- had recommended that discussions should be as open and transparent as possible in order to support the implementation process.

Accordingly, the Presidency suggested that DAPIX take the smoothest way forward possible and invited all relevant actors to report regularly on the state of play, in particular on implementation issues which would need coordination and possibly an intervention at political level. The Presidency furthermore promised to continue above discussions on the importance of SIENA for PIUs at the forthcoming meeting.

4. Prüm Council Decision

4.1 Implementation – state of play

Delegations took note of 5081/4/17 REV 4 and were invited to inform the GSC regularly so as to maintain a reliable presentation of the state of play.

4.2 Organisation of evaluation visits

Delegations took note of information set out in 5296/4/17 REV 4.

4.3 Ongoing evaluation

Portugal / Vehicle Registration Data

Since all scrutiny reservations introduced on the evaluation visit report at the previous meeting had been lifted, delegations approved the

- evaluation visit report (11262/17),
- the overall evaluation report (11263/17),

- the draft Council Conclusions (11267/1/17 REV 1) and
- the draft Council Implementing Decision (11268/17)

with a view to launching, once the Conclusions have been adopted, the consultation of the European Parliament, and adopting the Implementing Decision upon receipt of the opinion of the EP.

Italy / reply to questionnaires

Delegations took note of the reply to the questionnaires on the

- *exchange of DNA data* (12499/17),
- *exchange of FP data* (12500/17),
- *exchange of VRD* (12501/17),

expecting the submission of the reply to the questionnaire on data protection at the forthcoming meeting so as to start evaluation visits in IT as soon as possible.

4.4 Fingerprint daily search capacities

The PL delegation asked for a further modification to the table on reciprocal search capacities (11211/2/17 REV 2). The delegate promised to negotiate bilaterally with the Member States concerned and to submit the revised figures to the GSC as soon as possible.

4.5 Update on available VRD per Member State

Delegations took note of the information set out in 12613/17 and were invited to check their data and submit possible modifications by 3 November 2017 to prum@consilium.europa.eu.

4.6 EUCARIS

4.6.1 "Prüm Decisions"

Delegations took note of the EUCARIS financial report (12285/17) comprising the financial affairs account 2016, the forecast budget implementation 2017 and the budget proposal 2018, presented by the EUCARIS secretariat with a view to drawing particular attention to the budget proposal, on which the EUCARIS General Assembly would decide in Prague on 5/6 October 2017.

4.6.2 Exchange of EUCARIS vehicle signals

The EUCARIS secretariat briefed on the revised set of vehicle signals and invited Member States to comply with the suggested integration of changes by 31 December 2017 (12332/17). Member States which voiced concerns about reaching this time limit were assured by EUCARIS that the technical features would allow for a migration at national pace.

5. Police Cooperation Convention for Southeast Europe (PCC SEE)

The AT delegate presented the state of play of the PCC SEE, signed in Vienna on 5 May 2006. The Convention envisages modern forms of police cooperation among the meanwhile eleven contracting parties and EU quality standards for forensic laboratories, data security and protection as well as police cooperation in SEE. Among the signatory states was RO, and to date, AT, BG, HU and SI have acceded the Convention. Other Member States are invited to join the Convention and, in particular its data base network (DBN).

This network established by dedicated expert groups allows a Prüm like and fully Prüm compatible exchange of DNA data, dactyloscopic data and VRD. The PCC SEE DBN Treaty is expected to be signed in September 2018 and to become operational in spring 2019.

Following the general overview, technical features of the Prüm like automated data exchange to be deployed were explained by the AT delegate on DNA and dactyloscopic data and the EUCARIS secretariat on VRD (12754/17).

6. Renewed Information Management Strategy (IMS)

6.1 Implementation of IMS Action List No 5 (5307/3/17 REV 3)

Delegations were informed about the state of play of:

- Action 3: Automation of data exchange processes (ADEP)

Setting out the perspectives of cross-border information exchange against the background of recent terrorist attacks, the FR delegate presented the results of the ADEP kick-off meeting, held in Madrid on 13/14 September 2017. A detailed update of the project was promised for the forthcoming DAPIX meeting .

- Action 8: Strengthening of Single Point of Contacts (SPOCs)

The Maltese delegate presented the outcome of the survey on SPOC structures (see CM 2882/17). Several delegations welcomed the work done so far and, highlighting the SPOC as a crucial factor for cross-border information exchange, urged an enhanced investment in the SPOC concept.

- Action 1: ATHENA

The Italian delegate reminded delegations, which have not yet done so, to submit the contact details of head of SPOCs (see CM 3534/17) as soon as possible so as to enable the preparation of their first meeting in either Tallinn or Rome in November 2017.

6.2 Preparation of draft IMS Action List No 6

Complying with the Council Conclusions on an updated IMS (15701/1/14), the Presidency presented a draft 6th IMS action list (11269/1/17 REV 1), whose 18 months life-span would start on 1 January 2018. In line with recommendations made by Member States, the draft list contained, on the one hand, the actions not yet concluded from the 5th list, and, on the other hand, new actions tentatively set out.

During a brief exchange of views on the draft list, several delegations invited the Presidency to collect information on the new actions so as to enable an informed discussion at the next meeting. Furthermore, DE confirmed its readiness to continue with the UMF3 action and FR suggested to add all PNR related implementation activities to the draft list.

7. AOB

No issue was raised under this point.
