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DAPIX 136
CRIMORG 94
ENFOPOL 301
COMIX 497

OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 23 September 2014
To: Working Party on Information Exchange and Data Protection (DAPIX)
Subject: Summary of discussions

MIXED COMMITTEE

1. Adoption of the agenda

The agenda was adopted as set out in doc. CM 3784/14.

2. "Swedish Framework Decision"

Delegations welcomed the proposal for a modified factsheet (see doc. 13034/14 DAPIX 112 CRIMORG 77 ENFOPOL 261 ENFOCUSTOM 93 COMIX 441) deemed more comprehensible compared to the previous one and, if correctly filled in, of more operational use for SPOCs. In order to enhance the user-friendliness of the factsheets, delegations suggested to merge the bullet points regarding respectively direct or indirect accessibility of information held by other authorities or private entities since these points were both referring to the same time lines. The Commission suggested to add a brief description on the rules SPOCs apply for choosing a communication channel.

Delegations were invited to fill in the factsheets by 30 October to prepare a compilation for the forthcoming DAPIX meeting.

DAPIX

1. Adoption of the agenda

The agenda was adopted as set out in doc. CM 3784/14 with the addition of points on re-convening technical subgroups and on a Commission study on the implementation of the fingerprint functionality in SIS 2.

2. Information from the Presidency

The Presidency informed that the PCCC conference scheduled for October was postponed. Details on date and venue as well as the programme would be given in due time ahead of the conference.

3. "Prüm Council Decisions"

3.1 Implementation - *State of play*

The IT delegation outlined progress made on the DNA and FP implementation. The Presidency invited delegations to check the information set out in doc. 5124/5/14 REV 5 JAI 7 DAPIX 1 ENFOPOL 1 CRIMORG 2, and to notify any further modifications to the Secretariat in order to enable the regular update of the overview.

The UK delegation briefed about the state of play of the business and implementation case regarding the decision for a possible opt-in to the "Prüm Decisions" and looked forward to co-operating with the Member States in this respect.

3.2 The Presidency invited the meeting to check the information set out in the

- Lists of experts concerning DNA, FP and VRD information exchange (doc. DS 1130/3/14 REV 3),
- Lists of national experts participating in Prüm evaluation visits (doc. DS 1310/14, DS 1311/14, DS 1152/3/14 REV 3),
- Lists of NCPs for DNA, FP, VRD (doc. DS 1055/4/14 REV 4, DS 1129/4/14 REV 4, DS 1023/4/14 REV 4).

3.3 Prüm - statistics and reports on automated data exchange 2013

The meeting took note of doc. 5968/3/14 REV 3 JAI 56 DAPIX 11 CRIMORG 6 ENFOPOL 21.

3.4 Implementation of the "Prüm Decisions" regarding fingerprints

The meeting took note of doc. 12195/1/14 REV 1 JAI 620 DAPIX 106 CRIMORG 73 ENFOPOL 230 setting out the tables on national fingerprint search capacities. The Presidency invited delegations that have not yet done so to submit the requested figures in due time ahead of the incoming DAPIX meeting.

3.5 DNA post-hit follow up procedure

The NL DNA lead expert explained how NCPs could bilaterally fine-tune the validation procedure of a match which may present a high risk of being false positive, in order to prevent unjustified mutual legal assistance procedures.

The Presidency subsequently suggested a rewording of the recommendation in the DNA evaluation visit report for Greece which was amended by the meeting as set out in doc. 10560/1/14 REV 1 JAI 425 DAPIX 78 CRIMORG 53 ENFOPOL 162 ENFOCUSTOM 76. The meeting endorsed the text on the understanding that the requesting Member State remains responsible for the validation of the match and that no additional DNA test would be obligatory in order to get further personal data and other information requested by mutual legal assistance.

3.6 On-going evaluation

Denmark

The meeting took note of

- the reply to the questionnaire on *data protection* (see doc. 11749/14 DAPIX 101 CRIMORG 69 ENFOPOL 213).

Croatia

The meeting took note of

- the reply to the questionnaire on *data protection* (see doc. 12144/14 DAPIX 104 CRIMORG 71 ENFOPOL 226).

The meeting discussed the RO request for translation into EN and/or FR of both the above documents in order to enable a better understanding of the national data protection legislation referred to and facilitate the evaluation visit procedure. No agreement on the need of such translation was reached.

Malta

The MT delegate informed about the completion of the national legal implementation concerning the *exchange of VRD*. In line with the agreement DAPIX reached at its meeting on last 12/13 March¹,

- the overall evaluation report (doc. 7168/14 JAI 130 DAPIX 35 CRIMORG 22 ENFOPOL 59 ENFOCUSTOM 30) and
- the corresponding draft Council Decision as finalised by the Legal/Linguistic experts (doc. 13056/14 JAI 667 DAPIX 116 CRIMORG 81 ENFOPOL 266 ENFOCUSTOM 97)

will be submitted to COREPER / Council.

¹ see doc. 7909/14 JAI 174 DAPIX 49 CRIMORG 32 ENFOPOL 90 TRANS 160

Cyprus

The meeting took note of

- the reply to the questionnaire on **data protection** (see doc. 12190/14 CRIMORG 72 ENFOPOL 228 DAPIX 105),
- the reply to the questionnaire on **VRD** (see doc. 6646/13 DAPIX 29 CRIMORG 26 ENFOPOL 49 COR 2),
- the **VRD evaluation visit report** (see doc. 13041/14 JAI 664 DAPIX 113 CRIMORG 78 ENFOPOL 263 ENFOCUSTOM 94),

and endorsed

- the **overall evaluation report** (see doc. 13045/14 JAI 665 DAPIX 114 CRIMORG 79 ENFOPOL 264 ENFOCUSTOM 95) and
- the **Draft Council Decision** on the launch of automated data exchange with regard to VRD (see doc. 13047/14 JAI 666 DAPIX 115 CRIMORG 80 ENFOPOL 265 ENFOCUSTOM 96),

with a view to submitting the latter documents to COREPER / Council.

Poland

The meeting took note of

- the reply to the questionnaire on **data protection** (see doc. 13166/14 DAPIX 119 CRIMORG 83 ENFOPOL272) and
- the reply to the questionnaire on **fingerprints** (see doc. 13129/14 DAPIX 117 CRIMORG 82 ENFOPOL 268).

Belgium

The meeting took note of

- the reply to the questionnaire on ***fingerprints*** (see doc. 13279/14 CRIMORG 85 DAPIX 123 ENFOPOL 277).

Estonia

The meeting took note of

- the ***VRD evaluation visit report*** (see doc. 13313/14 JAI 684 DAPIX 127 CRIMORG 86 ENFOPOL 280 ENFOCUSTOM 104)

and endorsed

- the ***overall evaluation report*** (see doc. 13314/14 JAI 685 DAPIX 125 CRIMORG 87 ENFOPOL 281 ENFOCUSTOM 105) as well as
- the ***Draft Council Decision*** on the launch of automated exchange with regard to VRD (see doc. 13315/14 JAI 686 DAPIX 126 CRIMORG 88 ENFOPOL 282 ENFOCUSTOM 103) subject to a FI scrutiny reservation on the documents.

with a view to submitting the latter documents to COREPER / Council if the reservation would be lifted by 26 September 2014.²

3.7. Organisation of evaluation visits

As to the indicative calendar for evaluation visits (see doc. DS 1043/4/14 REV 4), PL and BE informed to be ready for FP evaluation in November.

² Note from the Secretariat: FI lifted the scrutiny reservation on 25 September 2014.

4. EUCARIS

On the understanding that the Eucaris Participants Board in Oslo on 9/10 October agree on the texts, the meeting took note of information (see doc. DS 1376/14) provided by the Eucaris secretariat on the financial situation as to the Account 2013, the Implementation budget 2014 and the Budget proposition 2015.

5. Information Management Strategy (IMS)

5.1. Future of the IMS - Orientation debate

Delegations took note of the interim report on the implementation of the IMS (see doc. 13032/14 JAI 663 DAPIX 111 CRIMORG 76 ENFOPOL 260). The Presidency explained that according to comments submitted by Member States over the summer break, the strategy as such seemed to need only slight amendments. A draft reviewed strategy would be prepared by the Presidency for the DAPIX meeting on 19 November with a view to submitting it to the Council in December.

Some delegations repeated that not only increased cross-border information exchange between law enforcement agencies due to the IMS or legal instruments such as the Prüm data exchange or the “Swedish Initiative” should be taken into account but also the changing political, institutional and inter-institutional perspective.

The review of the strategy should also take into account the European Council Conclusions of June 2014 with regard to the improvement of the operational context of cross-border information exchange.

As to the implementation of the IMS, the Presidency stressed that more commitment of Member States would be needed and that the next action list which would be drafted by the incoming Presidency should be as realistic as possible in terms of implementation capacities.

At the request of one delegation, the Commission explained that the preliminary results of the study on EIXM follow-up measures would internally be discussed on 10 October and promised to inform DAPIX about it at the forthcoming meeting

5.2. IMS action II/7/ PCCC/European dimension

The BE delegation explained the results of the pilot to use SIENA in PCCCs which in the case of the PCCC Heerlen were generally positive. However, since some delegations considered SIENA not suitable a solution for their PCCCs, it should be decided on a case-by-case basis whether SIENA would be an appropriate application for PCCCs.

The Commission welcomed the positive outcome of the pilot and stressed that funding for the implementation of SIENA was always considered a priority by the Commission.

Because of the different national approaches, one delegation suggested to discuss the exchange of best practices and the possible drafting of a manual at the incoming PCCC conference.

5.3. UMF 3 Interoperability coordination program

The Europol representative informed about the state of play on the UMF 3 program. The Presidency promised to inform DAPIX at the forthcoming meeting about the results of the UMF3 coordination meeting at Europol on 7 November 2014.

6. Any other business

The DK delegation suggested to consider the organisation of technical subgroups to discuss either implementation problems issues after the running out of the MCT assistance or to share operational experience. The Presidency showed interest for the proposal as long as a substantial agenda could be set up.

The IT delegation questioned the Commission's approach to launch a study on the implementation of the fingerprint functionality in SIS 2 without having informed DAPIX about it. Delegations asked the Presidency to deal with this issue at the forthcoming DAPIX meeting.