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**OUTCOME OF PROCEEDINGS**

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From: General Secretariat of the Council  
On: 27 November 2013  
To: Working Group on Information Exchange and Data Protection (DAPIX)  
Subject: Summary of discussions

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**MIXED COMMITTEE**

**1. Adoption of the agenda**

The agenda was adopted as set out in doc. CM 4834/13.

**2. Information from the Presidency**

The Presidency provided general information about the 4th conference on PCCCs.

### **3. Outcome of the 4th Conference on PCCCs, Brussels 21-22 November 2014**

The Commission presented a compilation of successful PCCC operations (see doc. DS 1998/13), and the outcome of the Conference (see doc. 16249/13 DAPIX 142 ENFOCUSTOM 160 ENFOPOL 357 COMIX 611) with a focus on three particular results: a footnote on the practice of requests between PCCCs and to be added to the PCCC guidelines (doc. 9105/11), the proposal for an update of the roadmap and the suggestion for the PCCC platform on the Europol Platform for Experts (EPE).

The debate focussed on whether chain requests could be considered as a fully fledged instrument for information exchange. The discussion revealed two contrary approaches of Member States, namely to regularly use chain requests or to exceptionally use them in urgent cases. Due to that difference and given that each PCCC functions on the basis of a bi-/multilateral agreement, doubts remained as to the footnote. The Presidency suggested to discuss the issue once more in the framework of the forthcoming general overhaul of the guidelines.

### **4. Information Management Strategy / 3rd IMS action list**

Action 7: European dimension of PCCC

Presenting the proposal to update the PCCC road map, the Commission stressed that although PCCCs function as bi-/multilateral information channels, it would contribute to strengthen their EU dimension within the EIXM framework. MS accepted the suggested road map and operational steps in general, but rejected in view of the restricted PCCC mandate the suggested cooperation with FRONTEX. They were as well hesitant as to PCCCs' capacity to contribute to crime intelligence pictures. However, they accepted to organise a workshop on this issue to explore synergies between PCCCs, central/national authorities and Europol within the existing ISEC PCCC project.

Action 1: Manual on information exchange

The IE delegate briefly informed about how the manual would be structured and the content presented in a user friendly way, and that it was intended to post the manual on the EPE (Europol Platform for Experts). The drafting group envisaged to present a draft document at the next DAPIX meeting if discussions on the content would have been completed.

## **DAPIX**

### **1. Adoption of the agenda**

The agenda was adopted as set out in doc. CM 4834/13 with the addition under AOB of a point concerning the need to update the national fact sheets of the SFD guidelines and an information on the intended Commission study on the follow-up to the EIXM Communication.

### **2. Information from the Presidency**

The Presidency informed that 14 MS had expressed their opinion on the RVNP (Registration of Vehicle Number Plates) initiative and invited delegations which had not yet done so to inform the GSC about their position by 31 January 2014.

### **3. Information Management Strategy / 3rd IMS action list**

Action 2 : ADEP

The Finnish and French delegation jointly presented the state of play following a workshop in Wiesbaden on 18-19 November (see doc. DS 2004/13) and explained next steps of the project to be dealt with in a further workshop at the beginning of next year.

Action 3 : Infopolex Coordination Initiative

The meeting took note of the HU presentation of the outcome of questionnaire CM 4352/13.

### **4. Prüm Council Decisions**

#### **4.1. Implementation - State of play**

The Presidency invited delegations to check data set out in doc. 5074/7/13 REV 7 JAI 6 DAPIX 1 ENFOPOL 1 CRIMORG 1 in order to enable its regular update by the GSC and informed that SK was operational for VRD exchange as of 19 November (see 2013/692/EU, OJ L 319/7). DK would submit by the end of this year the replies to the questionnaire on data protection, DNA data and VRD exchange. BE informed to be ready for the DNA evaluation visit on 2-3 December.

4.2. Delegations took note of the list of experts concerning information exchange (doc. DS 1191/3/13 REV 3), the list of VRD National Contact Points (doc. DS 1121/2/13 REV 2), the list of national experts participating in VRD evaluation visits (doc. DS 1025/2/13 REV 2) and the list of National Data Protection Authorities (see doc. DS 1966/13). Modifications would be done by the GSC upon further notification of new data from delegations.

4.3. Revised questionnaire on exchange of dactyloscopic data pursuant to Article 9 of Council Decision 2008/615/JHA

Delegations took note of the modification of question 2.11 in the questionnaire on exchange of dactyloscopic data (see doc. 6661/09 ADD3 REV 1).

4.4. Greece - Reply to questionnaire on data protection

The meeting took note of doc. 16401/13 DAPIX 143 CRIMORG 135 ENFOPOL 363.

4.5. France - Declaration in accordance with Art. 36(2)

The meeting took note of doc. 14820/13 DAPIX 126 CRIMORG 123 ENFOPOL 319.

4.6. On-going evaluation

#### **Malta / VRD**

The meeting took note of the supplementary reply to the questionnaire on data protection in relation to VRD (see doc. 13649/12 ADD 1 DAPIX 103 CRIMORG 98 ENFOPOL 270) and the revised reply to the questionnaire on exchange of VRD (see doc. 11765/1/13 REV 1 DAPIX 94 CRIMORG 91 ENFOPOL 208). MT informed that once the pending legal issue would have been solved at national level, the VRD evaluation visit report would be submitted.

#### **Latvia / VRD**

The meeting took note of the reply to the questionnaire on VRD exchange (see doc. 14758/13 DAPIX 125 CRIMORG 122 ENFOPOL 317). LV informed to be ready for evaluation in January.

## **Finland / FP**

The meeting approved the evaluation visit report (doc. 16689/13 JAI 1044 DAPIX 147 CRIMORG 137 ENFOPOL 368 ENFOCUSTOM 164) and the overall evaluation report (doc. 16690/13 JAI 1045 DAPIX 148 CRIMORG 138 ENFOPOL 369 ENFOCUSTOM 166) with a view to submitting the latter document together with the draft Council Decision (doc. 16691/13 JAI 1046 DAPIX 149 CRIMORG 139 ENFOPOL 370 ENFOCUSTOM 166) to COREPER/Council for adoption.

## **Sweden / FP**

The meeting took note of the reply to the questionnaire on dactyloscopic data exchange (doc. 14821/13 DAPIX 127 CRIMORG 124 ENFOPOL 320).

## **Greece / DNA**

The meeting took note of the reply to the questionnaire on DNA data exchange (doc. 16424/13 DAPIX 144 CRIMORG 136 ENFOPOL 365. EL indicated to be ready for evaluation early 2014.

### 4.7. Organisation of evaluation visits

Presenting the indicative calendar for evaluation visits in 2013/2014 (see doc. DS 1022/7/13 REV 7), the Presidency invited the four delegations which are ready for evaluation in January 2014 to contact the lead expert in order to set up evaluation teams.

### 4.8. Report on MCT / Europol helpdesk activities

The MCT representative reported on activities carried out in 2013 in particular with regard to the "DNA Implementation Guide" and the "Fingerprint ICD Guidance Document". As to the latter, he invited MS to comment by 15 January on the version distributed at the FP expert meeting of 2 October. He recalled that a fingerprint test platform had been made available to all MS.

Highlighting the fragmentary implementation of DNA and FP data exchange (cf. tables of annex 3 and 4 in doc. 5074/7/13 REV 7), he invited operational MS to explore why some of them hesitate to exchange data with all MS operational in the same data category.

The Europol representative reported on Prüm helpdesk activities in 2013 and on activities envisaged for 2014 underlining that the implementation of these strategic goals were subject to resources available at Europol (see doc. 16660/13 DAPIX 146).

## **5. Directive 2011/82/EU facilitating the cross-border exchange of information on road safety related traffic offences (CBE)**

### 5.1. State of play of the implementation

After the Presidency presented the state of play (see doc. DS 1321/4/13 REV 4), the Council's Legal Service (CLS) replied as requested to the question whether MS can be operational for CBE VRD exchange without being operational for Prüm VRD exchange.

The CLS stressed that its view of the issue was merely to be considered as a technical legal advice and that it was the responsibility of the Commission to oversee the application of EU law under the control of the Court of Justice.

As to the implementation of CBE technical requirements, the CLS reminded that, according to the principle of sincere cooperation (Art. 4(3) TEU), efforts to overcome obstacles in this respect must be made by all parties concerned, both at Union and national level.

The CLS outlined the links between both legal instruments and, in particular, that all relevant, i.e. in relation to VRD, provisions on data protection set out in the Prüm Decisions also apply to personal data processed under the CBE Directive (cf. Art. 7(2) CBE). This reference effectively incorporates in the CBE Directive the requirement for a Council Decision that the conditions relating to the implementation of data protection provisions have been met and the exchange of personal data can be launched. As a result, a Council Decision according to Art. 25(2) of Decision 615/2008/JHA seemed to be necessary to allow CBE data exchange. The CLS explained in this context that although the purpose of data exchange was different for both instruments, the data set to be exchanged was the same.

The Commission did not yet take a position on the issue of Prüm as a pre-condition for CBE. However, the CLS as well as the Commission were of the opinion that there is no legal provision for a specific signal to launch CBE VRD exchange between MS which already exchange VRD according to the Prüm Decisions.

Finally, the CLS reminded delegations that according to Title VII of Protocol No 36 TEU, Art. 10, the transition period with respect to Union acts in the field of police cooperation and judicial cooperation would end in December 2014. As of then, the Commission would be entitled to launch infringement proceedings against Member States and proceedings for failure to act against the Council for failing to implement the Prüm Decisions.

## 5.2. Outcome of questionnaire CM 4154/13

The SE delegate presented the outcome of the questionnaire on CBE step 2 procedures (see doc. DS 1996/13) to be considered as a preliminary result since only nine Member States had replied so far. In order to provide a reliable picture, delegations which have not yet done so were invited to reply to the questionnaire by 31 January. The delegate reminded once more that SE national legislation was an obstacle to effectively apply the CBE Directive.

## 6. Presentation of the incoming EL Presidency Programme

The EL delegate outlined the working programme of the incoming Presidency with a focus on the setting up of guidelines for the organisation of SPOCs, on the issue of the choice of the appropriate information exchange channel, and on the Prüm implementation. Meetings are scheduled for DNA/FP and VRD experts on 11 and 12 March respectively, and for plenary sessions on 13 March, 7 April and 2 June.

## 7. Any other business

The SI delegate suggested to check whether an update of the national factsheets in the guidelines to the Council Framework Decision 2006/960/JHA (SFD) were necessary since the current version dated from 2010.

The Commission briefly informed about a study on the extent to which Member States implement the recommendations made in the EIXM Communication and that the search for the contractor was still on-going.