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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 27 February 2018
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 1355/2/18.

2. Information from the Presidency

Delegations were informed about ongoing discussions on the interoperability proposals. In this context, the SE delegate pointed out to inconsistencies in the terminology used and suggested to come to a common understanding of key terms, such as 'hit' or 'match'.

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

The Presidency informed that in view of the near implementation deadline the JHA Council would exchange views on implementation challenges in the Member States at its meeting on 8 March 2018.

3.1 Conference on the future of PNR data - effective use and challenges

(Sofia, 21 February 2018)

Delegations took note of Presidency information (6104/18) on the recent Sofia PNR conference, where participants of the Member States, third countries and EU agencies discussed key aspects of how to effectively use the PNR Directive in the fight against terrorism and serious crime. The conference highlighted the continuing need for common and coordinated efforts of all stakeholders to become operational and to integrate passenger information units (PIUs) in the existing law enforcement information exchange network.

3.2 PNR implementation - state of play

The Commission outlined the results of the 7th implementation meeting in The Hague on 19 January 2018.

The Commission implementation analysis grouped Member States into three clusters, that is a first cluster of nine Member States at an advanced stage with three of them having notified the transposition of the Directive, a second cluster of thirteen at an intermediate stage and a third cluster of five at a relatively early stage of the implementation process. While substantial progress over the last months was welcomed, a number of outstanding key operational and legislative challenges to make PIUs functioning were set out.

The publication in the Official Journal of the notified competent authorities (Art. 7(3)) of the Directive was expected for the near future.

The 8th implementation meeting will be convened in The Hague on 12 April 2018 .

3.3 Update on the Informal Working Group on PNR

Delegations discussed the outcome of proceedings (5501/18) of the meeting in The Hague on 16/17 January 2018 presented by the IWG PNR Chair (DE), where IWG PNR participants welcomed the format of these informal gatherings and requested, in particular, to attribute more time to discuss the specific topics within each of the working groups.

The IWG chair informed that a dedicated CEPOL PNR training seminar was planned to take place in Münster (DE) in October. With regard to the envisaged review of the API (Advance Passenger Information) Directive, the Commission representative referred to the ongoing finalisation of a dedicated Communication. As to security requirements for SIENA as default channel for PIU/PIU communication, Europol confirmed that establishing BPL (Basic Protection Level) was part of its work programme 2018.

The IWG PNR chair announced that the next meeting would take place at Europol HQ in The Hague on 10/11 April 2018.

3.4 Europol preparation for the PNR implementation

The Europol representative outlined the role of Europol in the EU travel intelligence architecture and confirmed that Europol would continue to support Member States in their implementation efforts.

4. Prüm Council Decision

The Presidency informed delegations about Council Conclusions on the occasion of the 10th anniversary of the 'Prüm Decisions' to be prepared for the JHA Council in June.

Delegations were informed by the GSC about a request for public access to documents, either in part or full, containing references to the following companies: Safran, Sagem Sécurité, Morpho, and Kaspersky Lab. Delegations concerned would be consulted on relevant Prüm related documents. Access would be granted in accordance with the relevant rules on transparency.

4.1 Implementation – state of play

Delegations took note of the state of play (5077/18) and were invited to check on a regular basis the reliability of information on national positions set out in the overview.

4.2 Organisation of evaluation visits (5226/18)

Ireland informed that the DNA evaluation visit would take place in April.

4.3 Prüm statistics and reports on automated data exchange 2017

Delegations took note of 5509/18 and supported the suggestion to review at expert level the model used to establish DNA data exchange statistics in order to tackle inconsistencies in these statistics. The Presidency invited delegations to cross-check their DNA statistics and to submit possible remarks by 16 March 2018.

4.4 Ongoing evaluation

Croatia / DNA data exchange

Delegations approved the:

- declaration in accordance with Art. 2(3) of Council Decision 2008/615/JHA (5379/18) ;
- evaluation visit report (5725/18);
- overall evaluation report (5732/18);
- draft Council Conclusions (5733/18 + COR 1) and the
- draft Council Implementing Decision (5734/18)

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.

Greece / VRD exchange

Delegations took note of the evaluation visit report (5927/18) and, upon intervention of the CLS, agreed to review the conclusions of the report and to come back to the evaluation file once VRD appropriate data protection legislation would be in place in Greece.

Replies to questionnaire

Ireland / DNA data exchange

Delegations took note of 6191/18 and Ireland was reminded to submit the declaration on available DNA analysis files in accordance with Art. 2(3) of Decision 2008/615/JHA before the evaluation visit.

4.5 Consultation on the negotiation of agreements with the Swiss Confederation and the Principality of Liechtenstein on the application of certain provisions of the Prüm Decisions and on Council Framework Decision 2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities

Delegations took note of the draft Agreements (6263/18) presented by the Commission. The Council Legal Service suggested

- to change Art. 8(8) of the Agreements to set out that the decision taking procedure for the launch of automated data exchange for CH and LI will be the same as for Member States: "On the basis of an evaluation report and following the same steps as for the launching of automated data exchanges in Member States the Council shall determine the date or dates as from which personal data may be supplied by Member States to [the Swiss Confederation/Liechtenstein] pursuant to this Agreement."
- to add, as a matter of political choice, a recital to the Agreements in order to give visibility to the bearing of costs for the setting up and maintaining of technical infrastructure to the same extent as the Council did in the negotiating directives: "(12a new) CONSIDERING that the expenses to set up and maintain the respective technical infrastructure necessary to implement the Prüm Decisions and the Forensic Decision should fall on [Switzerland / Liechtenstein]."

The Commission promised to take into consideration the suggestions made.

The Presidency invited delegations to submit comments on the draft Agreements by 16 March 2018, including on the CLS suggestions.

5. Information Management Strategy (IMS)

Delegations were informed that the CEPOL Prüm online learning module, after having been reviewed by Commission and GSC services, had been submitted to national CEPOL delegates for review by 5 March 2018.

In order to proceed to the regular semi-annual update of the manual on law enforcement information exchange, delegations were invited to check the contact details in the current addendum (6261/17 ADD1 REV2) and, in particular, to submit PIU contact details. The update would be issued by the end of June.

5.1 Implementation of action list No 5 (5307/3/17 REV 3)

- action 3: ADEP : Delegations were informed about the progress made regarding technicalities of the Automation of Data Exchange (ADEP) and the successful pilot test runs carried out in January;
- action 5: UMF : The DE delegate outlined (6450/18) progress made in work-stream 1 and 2 of the project and deplored deadlocks with regard to work-stream 3 due to the lack of BPL needed for SIENA connections. PL and SE as well as euLISA noted their wish to participate in a 'UMF3+/-' project suggested for the 6th IMS action list.

5.2 Preparation of draft IMS Action List No 6

On behalf of Europol, the Presidency outlined a proposal for action 9: 'Europol's involvement in Prüm information exchange'. Although unable to implement the action this year, Europol showed interest in the action and suggested a "business need & feasibility"-study. The outcome of the study to be carried out by means of a survey within DAPIX as of mid-March would be presented at a forthcoming meeting.

Delegations approved to continue the actions set out in the draft 6th IMS action list (1269/2/17 REV 2).

6. Practical Advisor for Law Enforcement Information Exchange

Welcoming the Presidency proposal (6243/18), delegations made some suggestions as to SIS II/SIRENE and PCCC references and to streamlining the text. Delegations were invited by the Presidency to submit further comments on the proposal by 16 March 2018, in particular on how to disseminate the advisor, that is as a supplement to the manual on law enforcement information exchange or as a stand-alone document, potentially available on the Europol platform for experts (EPE).

7. AOB

No issue was raised under this point.
