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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 25 June 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 2905/18.

2. Information from the Presidency

Delegations were informed about the state of play of the:

- **interoperability proposals** regarding which COREPER had agreed on a mandate to start negotiation with the European Parliament whereby it is understood that a supplementary mandate to negotiate the consequential amendments would be needed under the incoming Presidency;
- annual implementation report on the **interoperability roadmap** (7931/1/18 REV 1)¹;

¹ The report was endorsed by COSI on 26 June 2018.

- **SIS legislative package** on which political agreement had been reached with the European Parliament on 21 June 2018, and which, after review by Lawyer Linguists, might be voted by the EP plenary in next November.

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

3.1. PNR (passenger name record) implementation - state of play

The Commission:

- informed about the overall status of the implementation on which details are set out in chapter V of the 15th Progress report towards an effective and genuine Security Union (10206/18);
- confirmed its further support of Member States' efforts to complete the PNR systems, and to organise to that end meetings with a focus on application challenges such as the first one of that kind in The Hague on 7 June 2018;
- encouraged Member States in view of the sub-optimal use of funds available for interoperability of passenger information units (PIU) to better use such funds;
- informed about the ongoing feasibility study for a central router for the submission of PNR/API data by air carriers, the final report on which was expected for October 2018.

3.2. Update on the Informal Working Group (IWG) on PNR

The chair (DE) of the IWG PNR presented the outcome of the fourth IWG meeting on the implementation of the PNR Directive, which took place in The Hague on 5 and 6 June 2018. Again, four sub-working groups (operational, legal, carrier connection, interoperability) dealt with specific items set out in 10139/18.

The chair informed, in particular, about:

- increasing interest of third countries to attend such meetings and the way to handle these interests;
- the development of the PIU.net project;
- the state of play of the Luxembourg lead API-Gateway - project on routing air carrier information and envisaged studies on a possible ETIAS/EES integration and a central routing mechanism;
- PNR training activities;
- the Europol travel intelligence vision document, which Member States are invited to comment by 29 June 2018.

The next meeting, chaired by FR, will take place in Paris on 2-3 October 2018.

In the wider context of the PNR implementation,

- Europol informed that the BPL (Basic protection Level) implementation for information exchange via SIENA would be delayed. A pilot project engaging five Member States was expected to start in the near future and the full implementation envisaged for 2019;
- the Commission informed following the adoption by Canada of their mandate on 22 May 2018 that, negotiations on the EU Canada PNR Agreement were launched on 20 June 2018 between the European Commission and the Canada Border Services Agency; the Commission would keep the Council informed at all stages of the negotiations.

4. Prüm Council Decisions

4.1. Implementation - state of play

Delegations took note of 5077/2/18 REV 2 with Luxembourg amending ANNEX 3 bis regarding the exchange of DNA profiles on suspects.

Organisation of evaluation visits

Taking note of the schedule set out in 5226/2/18 REV 2, no delegation indicated a possible evaluation date for this autumn. Delegations were informed by the GSC that Norway aimed to complete the legal implementation of the Prüm Agreement by autumn of this year.

4.2. Ongoing evaluation

Ireland / Fingerprints

Delegations approved the:

Evaluation visit report (7495/18);

Overall evaluation report (7496/1/18 REV 1);

Draft Council Conclusions (7497/1/18 REV 1) and the

Draft Council Implementing Decision (7774/1/18 REV 1)

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.

Ireland / DNA

Delegations approved the:

Declaration on DNA analysis files according to Decision 2008/615/JHA, Art. 2(3) (9309/18);

Evaluation visit report (9097/18);

Overall evaluation report (9098/18);

Draft Council Conclusions (9100/18) and the

Draft Council Implementing Decision (9101/18)

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.

Croatia / Fingerprints

Delegations approved the:

Evaluation visit report (9087/18);

Overall evaluation report (9089/18);

Draft Council Conclusions (9093/18) and the

Draft Council Implementing Decision (9094/18)

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.

United Kingdom / DNA

In order to prepare an informed decision on the UK access to Prüm DNA data exchange at current stage, the Presidency presented a report on the state of play of evaluation (10156/18). The report set out the DAPIX discussions on operational, technical and legal issues and concluded that the UK had met some, but not all of the concerns put forward by Member States.

All delegations taking the floor welcomed the report as an excellent overview. The UK stated, on the contrary, to be Prüm compliant. On that basis, the UK requested the formal Council documents paving the way for the UK access to Prüm DNA data exchange be prepared without delay. The UK furthermore announced to submit a formal reaction on the Presidency state of play report.

The meeting discussed the issues to be assessed, i.e. the exclusion of suspects' DNA files from Prüm data exchange, the loci policy, the UK legislation giving effect to Prüm, the staged approach to making available DNA profiles, the evolution since the evaluation visit. Discussions focused eventually on the suggestion to organise a new evaluation visit in order to check the UK efforts to meet Prüm standards since DAPIX disapproved the conclusions of the evaluation visit report in 2017. The visit could be organised in time so that all documents necessary for the Council and the European Parliament to decide on the UK access to Prüm would be prepared by the September DAPIX meeting. This suggestion was supported by all Member States which took the floor, but rejected by the UK.

The UK said to have implemented the legal requirements of the Prüm Decisions and reduced the issues to be assessed to the exclusion of suspect files, which it considered a political matter. The UK announced that it would invite delegations bilaterally to sort out the remaining concerns.

To the understanding of the CLS, none of the outstanding issues mentioned in the report had been closed during the meeting.

Since the state of play report was submitted shortly before the meeting, the Presidency in its conclusion invited delegations to transmit their comments to the GSC by 9 July 2018, including on the question of a new evaluation visit.

4.3. *Declaration in accordance with Decision 2008/615/JHA, Art. 36(2)*

Delegations took note of the declarations of the *Czech Republic* (10102/18) and of *Portugal* (10142/18).

4.4. **Fingerprint daily search capacities**

FR asked CZ to modify the bilateral figures set out in 7513/1/18 REV 1. The amended table would then be inserted in Annex 4 ter of 5077/18.

4.5. **Draft Council Conclusions on Prüm**

Following the agreement on the amendments suggested by RO and FR/DE to 7766/1/18 REV 1, the Presidency announced that the 2nd revised version of the draft conclusions would be submitted to COREPER/Council for adoption as soon as possible.

5. **Manual on Law Enforcement Information Exchange / update 2018**

Delegations were invited to check by 30 June 2018 whether the national contact details set out in 6727/18 ADD 1 needed modifications.

6. **Practical Advisor for Law Enforcement Information Exchange**

Delegations added minor modifications to 6243/2/18 REV 2 and agreed to annex the practical advisor as ADD 2 to the Manual on Information Exchange (6727/18).

7. **Renewed Information Management Strategy (IMS)**

As to implementing IMS Action list No 6 (6724/18), delegations were briefed on :

- **action 1: ATHENA** - state of play; the BE delegate informed on:
 - the program of the incoming Head of SPOCs meeting in Ghent (2-4 July), dealing particularly with SPOC operational experience in counter-terrorism and, linked to IMS action no 8, the issue of SPOC case management systems and choice of channels;

- the coordination over the next six months of the SPOC exchange of staff plan;
 - the development of the SPOC training strategy agreed upon in Rome on 27 April 2018;
- **action 2: ADEP** - state of play; the FR delegate said that the project was running well and that the exchange of test data between connected Member States would start on 1 July 2018 with a big amount of data;
- **action 5: UMF 3+** - state of play; Germany as the project coordinator informed that:
- a grant agreement for the UMF3+ project was going to be prepared by the Commission;
 - the project was scheduled for 36 months with a planned budget of about 3 mio € where 95% can be co-funded by the Commission under the ISF programme;
 - activities were in line with the findings of the “High-level expert group on information systems and interoperability” and the two proposals for a Regulation “on establishing a framework for interoperability between EU information systems”, and accordingly an important activity would be the smooth hand-over of the UMF governance to Commission services;
 - contingent upon the signing of the grant agreement, a kick-off meeting with all more than 30 partners was expected for the last week of October.
- **action 7: PCCC - European dimension** - state of play; referring to the 9th annual PCCC Conference (The Hague, 23-24 April 2018), the BE delegate focused on the main lesson learned that SIENA is not totally fit for PCCCs workflows and that the search for interface solutions between SIENA and web-applications at national level should be coordinated as much as possible at European level;

– **action 9: Europol's involvement in Prüm information exchange**; based on 11 Member States' replies to questionnaire CM 2106/18, the Europol delegate explained that:

- such involvement was considered as an added value from an operational perspective;
- to enhance operations, only third parties' data should be considered in order to avoid double hits;
- implementing technical solutions at Europol would not require a significant budget and no costs would be generated for Member States;
- the importance to perform a dedicated business needs analysis was underlined and, in case of a positive outcome, a pilot project with some Member States should be considered.

The Presidency again invited Member States, if not yet done so, to reply to CM 2106/18.

8. Priorities of the Austrian Presidency

The incoming Presidency presented the DAPIX work program, which aims, in particular, at starting discussions on adapting the "Prüm Decisions" to technical and forensic developments. Furthermore, it would seek to support the Western Balkans to reach the security, forensic and data protection standards of the EU.

Meetings are scheduled for 17 September, 30 October and 27 November 2018.

9. AOB

The Commission delegate informed that the Commission is currently preparing the draft Prüm Agreements between the EU and Switzerland as well as Liechtenstein. DAPIX will be updated on that issue in the next meeting.