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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 17 September 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 4182/1/18 REV 1.

2. Information from the Presidency

The parties of the Police Cooperation Convention for Southeast Europe (PCC SEE) signed a Prüm like agreement and a memorandum of understanding on automated exchange of DNA, dactyloscopic and vehicle registration data in Vienna on 13 September 2018. The agreement aims at strengthening cross-border police cooperation with respect to fighting threats to public security and to preventing, detecting and investigating criminal offences. By the same token, it aims at enhancing the significant role of the Western Balkans with regard to security and stability in and around Europe.

Prüm Council Decisions

2.1 Implementation - state of play

Delegations took note of 5077/3/18 REV 3 and were informed that REV 4 was already under preparation in line with latest information from Member States.

Organisation of evaluation visits

The Italian delegate confirmed the schedule set out in 5226/3/18 REV 3. No other delegation informed about imminent evaluation visits.

2.2 Ongoing evaluation

United Kingdom / DNA

Underlining the progress the UK made in implementing Prüm DNA data exchange provisions since the initial evaluation visit in 2017, the chair presented the outcome of the supplementary evaluation visit report (11545/18) and highlighted several points (the repetition of test runs, the specific structure of the UK DNA database, data protection and quality management provisions, which could serve as a potential exemplar, the staged approach to connect the UK database with other MS' databases and the amended loci policy) that lead to the positive recommendation of the report. As to concerns on the issue of the UK not making available DNA profiles of suspects although legally possible and, as explained in the report, to the detriment of UK criminal investigations, the chair pointed out that this restriction went back to a political commitment, based on recommendations of the 2015 UK Prüm business case and made by the then Home Secretary to the UK Parliament. During the supplementary evaluation visit, though, the current Home Secretary stated in presence of the evaluation team that the UK would be ready to review this restrictive policy within a year and in the light of operational experience with DNA data exchange.

Delegations welcomed the comprehensive report and, from a pragmatic point of view, expected a significant added value to cross-border police cooperation once the UK would be Prüm operational. However, some Member States as well as the Commission voiced principal concerns. They highlighted that the UK policy regarding suspects' profiles would legally not comply with the Prüm Decisions since such a partial access to data would disregard the principles of reciprocity and availability, which govern cross-border law enforcement information exchange, and should be respected equally by all Member States. Furthermore, delegations argued for a review of the documents to be submitted to the Council so to inform Ministers what would be at stake, and requested safeguards regarding the potential policy change, following which full compliance would eventually be ensured.

Consequently, the draft overall evaluation report (11869/18), the draft Council Conclusions (11915/18) and the Draft Council Implementing Decision (11923/18) were revised. The amendments resulted, in particular, in that the Council

- request that, within 12 months from the launching of the automated data exchange, the UK review its policy of excluding suspects' DNA data files from the scope of data exchanged, and
- decide that if, by then, the UK has not notified the Council that it makes available such files, the Council will, within three months, re-evaluate the continuation or termination of the automated DNA data exchange with the UK.

No agreement was reached regarding a reference to a sunset clause.

Due to lingering scrutiny reservations, the Presidency invited delegations to voice possible concerns within the framework of an informal silence procedure: if no objection would be notified to the GSC by Friday, 21 September 2018 cob, the amended drafts would be deemed approved and subsequently submitted to COREPER/Council for further steps to be taken for the adoption, once the European Parliament has been consulted, of the revised Implementing Decision.

Ireland / Data protection

The meeting took note of the revised reply to the questionnaire (14246/1/17 REV 1).

Ireland / VRD

The meeting took note of the reply to the questionnaire (12073/18).

3. Next Generation Prüm

The Presidency introduced the discussion paper on developing Prüm (11868/18) focused on the challenge to speed up the Prüm follow-up information exchange, the broadening of the scope of Prüm data exchange and the adaptation to new technical standards. The paper, in particular, called on delegations to reflect on how to feed into the Commission feasibility study on improving Prüm information exchange. The Commission outlined the study, which would assess in close cooperation with the Member States over a period of ten months the Prüm framework from legal, technical operational and functional aspects, especially the linking of Prüm with centralised EU JHA information exchange systems.

Delegations welcomed the timing and the initiative to launch a discussion on the future shape of the Prüm cooperation. They underlined the importance of the items set out in the questionnaire of the paper, to which some of them replied preliminarily, and highlighted their readiness to commonly tackle the complex issues. With regard to Prüm cooperation beyond automated data exchange, the Romanian delegation suggested to enrich the discussion by a community policing concept and, to that end, invited the Presidency to add a set of questions to the discussion paper.

The Presidency took note of the interventions and stated broad support, particularly for the procedural concept to deal with technical issues in DAPIX expert sub-groups. The Presidency invited delegations to submit further contributions by the end of the 2nd week of next October in order to continue the exchange of views at the next DAPIX meeting on 30 October 2018.

4. Renewed Information Management Strategy (IMS)

- Implementation of IMS Action list No 6 (6724/18)
 - action 1: ATHENA - state of play

The Italian and Belgian delegates informed about the outcome of the 2nd Heads of SPOC meeting in Ghent on 2/4 July 2018 (11870/18) and outlined the program of the 3rd such meeting in Paestum/IT on 10/12 October 2018.

- action 4: Enhancing data quality - state of play

Delegations took note of the presentation by eu-Lisa of latest developments. In summary, data quality enhancement is now a habit at eu-LISA and a culture of discipline to continuously drive quality improvement has been instilled. Next steps will include collaborative efforts towards a EU-wide DQ enhancement (e.g. through research publications, joint trainings, operational planning).

5. AOB

The Commission briefed on the state of play of the negotiation on a EU Canada PNR Agreement. Following the adoption by Canada of its mandate on 22 May 2018, negotiations were launched on 20 June 2018 between the Commission and the Canada Border Services Agency. The second round of negotiations was planned to take place in Ottawa on 18/19 September 2018.
