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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council

On: 11 October 2018

To: Delegations

No. prev. doc.: 12459/18

Subject: Council Conclusions on the implementation of the general provisions on data protection of Chapter 6 of Council Decision 2008/615/JHA
- Evaluation of the United Kingdom with regard to automated exchange of DNA data

Delegations will find in the Annex the Council Conclusions on the implementation of the general provisions on data protection of Chapter 6 of Council Decision 2008/615/JHA, adopted by the Council at its 3641st meeting held on 11 October 2018.

COUNCIL CONCLUSIONS
on the implementation of the general provisions on data protection
of chapter 6 of Council Decision 2008/615/JHA

Evaluation of the United Kingdom with regard to automated exchange of DNA data

1. According to Article 25(2) of Council Decision 2008/615/JHA, the supply of personal data provided for under the Decision may not take place until the provisions on data protection set out in Chapter 6 of the Decision have been implemented in the national law of the territories of the Member States involved in such supply. The Council must unanimously decide whether this condition has been met. This provision does not apply to those Member States where the supply of personal data as provided for in the Decision has already started pursuant to the "Prüm Treaty" (2005).
2. According to Article 20 of Decision 2008/616/JHA, the verification that the above condition has been met is to be done on the basis of an evaluation report based on a questionnaire. With respect to automated data exchange in accordance with Chapter 2 of Decision 2008/615/JHA, the evaluation report is also to be based on an evaluation visit and a pilot run.
3. According to Chapter 4, point 1.1, of the Annex to Decision 2008/616/JHA, the questionnaire drawn up by the relevant Council Working Group concerns each of the automated data exchanges and has to be answered by a Member State as soon as it believes it fulfils the prerequisites for sharing data in the relevant data category.
4. The United Kingdom has completed the questionnaire on data protection and the questionnaire on DNA data exchange. A successful pilot run has been carried out by the United Kingdom with Austria and Germany. An evaluation visit has taken place in the United Kingdom and a report on the evaluation visit has been produced by the Austrian/German/French evaluation team and forwarded to the relevant Council Working Group (11545/18 JAI 827 DAPIX 257 CRIMORG 110 ENFOPOL 418 ENFOCUSTOM 172).

5. An overall evaluation report, summarising the results of the questionnaire, the evaluation visit and the pilot run concerning DNA data exchange has been presented to the Council (11869/1/18 REV 1 DAPIX 263 CRIMORG 115 CT 141 ENFOCUSTOM 175 ENFOPOL 432 JAI 849).
6. At the meeting of the Working Party on Information Exchange and Data Protection (DAPIX) on 17 September 2018, it was acknowledged that each Member State bound by 2008/615/JHA agrees that the conditions are fulfilled for the Council to conclude that for the purposes of automated data exchange with regard to DNA data, the United Kingdom has fully implemented the general provisions on data protection of Chapter 6 of Decision 2008/615/JHA.
7. On this basis, the Council concludes that for the purposes of automated data exchange with regard to DNA data, the United Kingdom has fully implemented the general provisions on data protection of Chapter 6 of Decision 2008/615/JHA.
8. Furthermore, the Council requests that, within 12 months from the launching of the automated data exchange, the United Kingdom review its policy of excluding suspects' DNA data files, in the light of operational experience with Prüm DNA data exchange and of the explanations in the evaluation visit report (11545/18). If, by then, the United Kingdom has not notified the Council that it makes available suspects' DNA data files, the Council will, within three months, re-evaluate the continuation or termination of the automated DNA data exchange with the United Kingdom.