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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 21 February 2019
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 1210/19.

2. Information from the Presidency

The Presidency informed about the state of play of negotiating the FIU Directive, the interoperability proposals, and the EU Canada PNR Agreement.

3. Monitoring the application 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 8th Informal Working Group meeting (The Hague, 5-6 February 2019)

Delegations took note of the outcome of proceedings presented by the IWG PNR chair (FR), who highlighted particularly the informal character of the meetings and the need for updating the working methods as proven by the outcome of the questionnaire annexed to 5505/19.

3.2 3rd meeting on the application of the PNR Directive (The Hague, 7 February 2019)

The Commission informed about agenda and outcome of the meeting and highlighted:

- that 21 MS have notified full, 2 partial and 4 no transposition;
- the ISF call for proposals aimed at strengthening the ability of PIU staff training and awareness raising activities. The deadline for submitting applications is 25 April 2019;
- the Commission's strategy to promote EU principles on data protection in forthcoming international conferences on aviation;
- the analysis of the first collection of PNR statistics, proving quantitatively the extremely targeted PNR policy, the cooperative approach as to build up carrier connections, the already substantial follow-up information exchange at national level, and the potential for improving data exchange at European level.

The 9th IWG PNR and the 4th application meeting will be organized back-to-back in The Hague at Europol HQ on 18-20 June 2019.

3.3 *Monitoring the implementation - state of play and way forward*

The meeting took note of the outcome of the RO questionnaire on IWG PNR working methods, which complemented the FR IWG questionnaire, and discussed the way forward (6300/19), in particular the option of a joint DAPIX/SIS SIRENE meeting to discuss the compatibility of PNR and SIS information exchange.

In view of BREXIT, the UK delegation expressed its interest in continuing information exchange to safeguard mutual interests.

4. 'Future Group' on travel intelligence and border management

Europol, supported by FRONTEX, outlined the concept of the 'future group' within Europol, based on an initiative of Europol and Frontex. The group would address the challenges of managing a growing complex information exchange landscape. Representatives from Member States, agencies and the Commission should attend this group in an as balanced as possible way. Member States considered this concept as ambitious in view of combining law enforcement and border management, asked for the profile of eligible participants, the specific issues or short-comings to be addressed by the group and the time frame of work ahead.

5. 'Prüm Decisions'

5.1 *Implementation - state of play*

Delegations took note of the state of play set out in 5322/19, and were invited to regularly update the GSC on possible changes. Delegations were furthermore informed that:

- the European Parliament would vote in plenary on 12 March 2019 the draft Council Implementing Decision regarding DNA/UK. Subsequently, the file would be submitted to COREPER/Council as a I/A item o, 13 and 18 March 2019 respectively;
- the Commission proposals on the draft Agreements with CH / FL on the participation in Prüm data exchange had been presented to JHA Councillors on 18 February 2019. Subsequently, the preparation of the draft Council Decisions on the conclusion and the signing of each Agreement would be launched without delay in order to obtain the consent from the European Parliament as soon as possible.

5.2 *Organisation of evaluation visits (5764/19)*

IT scheduled evaluation visits for DNA and VRD in June and November 2019 respectively.

5.3 Croatia

The meeting took note of the **Declaration in accordance with Decision 2008/615/JHA, Art. 36(2)** set out in 6082/19.

5.4 Ongoing evaluation

Ireland / VRD

Delegations approved the **Evaluation visit report (5301/19)**, the **Overall evaluation report (5309/19)**, the **Draft Council Conclusions (5310/19)** and the **Draft Council Implementing Decision (5869/19)**, 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.

5.5 Italy

The submission of the **Declaration on DNA analysis files according to Decision Art 2(3) of 2008/615/JHA** was postponed to a later date.

5.6 Statistics and reports on automated data exchange 2018

The submission of the report was postponed due to lacking contributions regarding DNA and FP data exchange statistics.

6. Future of Prüm

6.1 *Evaluating the state of play of the implementation of the 'Prüm Decisions'*

The Presidency explained that here was no need to reply separately to the Presidency questionnaire (5550/19) on evaluating the administrative, technical and financial implementation of the 'Prüm Decisions', because it was to be merged with the questionnaire of the contractor of the Commission feasibility study.

6.2 *Feasibility Study on improving information exchange under the 'Prüm Decisions'*

The study contractor outlined objectives, content and timeframe of the study. Workshops are planned for 27 March, for mid-May and for 25 June 2019; the final report is expected to be delivered in September 2019. Concerns were expressed regarding the tight schedule of replying to the comprehensive questionnaires.

6.3 *Next Generation Prüm (Prüm.ng)*

The AT delegation presented the state of play of establishing Prüm.ng focus groups and the work ahead. The Presidency invited delegations to check by 1 March 2019 the contact details in 5556/19. Chairs of the focus groups will Germany for DNA, the Austria for FP and provisionally for FR (facial recognition) provisionally. The chair of the VRD focus group remained open. Portugal will chair the OPC (Other Forms of Police Cooperation) focus group dealing with classical law information exchange.

Delegations voiced concerns on how to cooperate with the LEWP working party when it comes to OPC, on how the agenda of the focus groups will be settled and the outcome of proceedings be reported to DAPIX, and along which timelines focus groups and the Commission study would be coordinated. The Presidency suggested that if need be the DAPIX technical subgroups could be revived; furthermore, if the focus groups would not proceed the same pace as the feasibility study, their results could nevertheless anticipate MS' position on technical provisions in a possible Commission proposal amending the 'Prüm Decisions'.

7. **Moving forward the automation of information exchange**

The Presidency outlined the preliminary outcome of the questionnaire annexed to the discussion paper on automation of information exchange (5596/19) and encouraged delegations to reply to the questions, if not yet done, so by 1 March 2019.

Since the topic was tightly linked to point 9.2, the DE delegate presented the outcome of the FR/DE project on the feasibility of EPRIS/ADEP, that is the automation of currently manual data exchange procedures supported by a police record index system, as well as the way forward. On the basis of the positive result, presented at the final conference on IMS action no 2 in December 2018, the continuation of the action had been decided and would be chaired by DE.

The way forward consists of (a) stabilising and improving the software solutions and processes, (b) the process improvement towards more automation, (c) identifying other use cases and their harmonisation with other initiatives, such as PIU.net, (d) identifying legal issues, (e) establishing a central service at Europol and reviewing the governance structure. The meeting intensively discussed EPRIS/ADEP and as to the preparation of an 'ADEP 2' follow-up project. The Commission informed to consider funding of the project and NL indicated its willingness to participate in the project.

It was discussed that EPRIS/ADEP and consequently the indexation would only refer to police records MS make available for cross-border exchange in the framework of the so-called Swedish Framework Decision (SFD). The argument that EPRIS would be redundant if Europol databases would systematically be consulted was countered by referring to the poor national input into these databases and by their relatively limited content dependent on the Europol mandate. Concerns were voiced as to the technical challenges concerning interoperability of databases on the one hand and decentralised on the other hand. As an observer in the project, AT raised the point that whereas UMF is a technological must, the current ADEP concept needed further fine-tuning to be efficient and, above all, specific legislation.

FR encouraged delegations to support the project. FI ensured that all questions, which were raised during the discussion, had been thoroughly taken into account during the pilot carried out on the basis of mutual trust in basic conditions, that is a legally appropriateness and investigative completeness of cross order queries since the relevant databases had been indexed. Furthermore, existing national legal bases seemed to be sufficient and EU legislation for bi-lateral information exchange at this stage not necessary.

The Commission, welcomed the discussion and indicated the possibility of a feasibility study on applying EU wide the outcome of the EPRIS ADEP pilot.

8. The future of IMS for EU internal security - 2019 and beyond

Delegations welcomed the ambitious Presidency initiative to start reflections on the Information Management Strategy (IMS) as well as the accompanying discussion paper (5685/19) with a comprehensive overview on issues at hand and on options how to better implement the IMS in future. Delegations agreed on discussing distinctively the basic IMS and its implementation, and, highlighted, while confirming the concept and the principles of the strategy, the need to overhaul the working methods. They preferred Council structures, that is DAPIX instead of informal groups, as the appropriated place to debate IMS issues.

The Commission emphasized to separate discussions on the IMS as such, because its principals and goals were still valid, and on its implementation, in which regard delegations were invited to look forward not in 18-months-periods but 10 to 15 years ahead. The Commission considered the IMS bottom-up approach to be ensured and DAPIX as the key forum for the discussion ahead it being a well functioning link between MS and the EU level. Furthermore, it was suggested to reflect on how the multiple information exchange management initiatives, which do exist but never appear on any IMS action list, could be brought to the level of DAPIX.

The Presidency announced a paper setting out the results of IMS work over the last ten years and invited delegations to reply by 15 March 2019 to the questions set out in the discussion paper.

9. Information Management Strategy (IMS)

Information on the state of play of:

- *action 1: ATHENA - Heads of SPOC - network*

IT presented the intention of setting up a network and invited delegations to submit their replies to the questions in 6277/19 by 20 March 2019.

- *action 2: ADEP - Summary of the final report*

Having completed the action, the DE and FR delegation presented a summary of the final report (6495/19) which was discussed under point 7.

- *action 4: Enhancing data quality*

The eu-LISA representative informed about progress made regarding the 4 action streams and the forthcoming completion of action No 4.

- *action 5: Universal Message Format - UMF 3+*

Information was postponed to the forthcoming meeting.

- *action 7: PCCC - European dimension*

The BE delegate orally informed about progress made regarding 4 of the 5 objectives and promised a detailed state of play in writing in the course of this year. Supported by ISF funding, the action continues further 36 months as of September 2018.

10. AOB

No issue was raised under this point.
