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I/A ITEM NOTE

from : Presidency
to : Coreper/Council

Subject : Follow-up on the outcome of the January Informal JHA Ministerial Meeting in the field of Modern Technologies and Security
- Presidency Paper

1. On January 15, 2009, the Informal JHA Ministerial Meeting discussed the use of modern technologies for security purposes. The ministers widely agreed that this rapidly developing area requires a systemic approach. The ministers noted, in particular, that law enforcement authorities cannot fall behind criminals in their capability to use efficiently modern technologies.
2. With the conclusions of the Future Group as a basis, the informal Council also supported a balanced approach where the gathering and exchange of information are concerned. The triangle of fundamental values – protection of privacy, freedom of movement and security – must always be taken into account. While there has not been a preference to establish new working bodies specifically designed to cover ethical issues or human rights concerns, the ministers noted that the EU already has competent institutions and bodies whose mandate will appropriately provide for collaboration in these issues. They also stressed the particular importance and the necessity of the protection of privacy.

3. Therefore, the Presidency focused the general discussions on the necessary steps to achieve the goals set out by ministers. This included
 - the elaboration of criteria or principles/guidelines that should be applied during the preparation and the development of new systems of information exchange within the EU and
 - a mapping of the practical needs of law enforcement.

4. **The Coreper is therefore requested to invite the Council to take note of the follow-up to the informal JHA Ministerial meeting on these two strands of work, as set out in the annexes to this document.**

Particular criteria as part of fundamental guidelines on how to develop, within a European framework, the future models of information exchange

The aim remains that of reaching a consensus on the direction in which to continue the work to elaborate/establish a set of general criteria, which should serve as fundamental guidelines on how to develop, within a European framework, the future models of information exchange.

Incorporating these fundamental guidelines into further activities of the EU will have a particular importance with a view to the development and implementation by the EU of the area of Justice and Home Affairs, namely the drafting and implementation of the Stockholm Programme.

The guidelines should be further elaborated in the course of preparation of the strategy for information management.

Particular criteria should deal with the following issues, not excluding other important and necessary guidelines for development:

1. Balance between protection of privacy, freedom of movement and security (triangle)

- **Assessment of the impacts of the proposal on all three values in a general context.**

This is a general discussion on the adequacy of intrusions into privacy, effects on freedom of movement and added value of the proposal for strengthening security.

2. Practical requirements of the law enforcement community

- **Assessment of the added value of the proposal, its necessity and usefulness, with regards to the needs and requirements of the law enforcement community.**

The development of new technologies and systems must be the outcome of requirements and needs of these entities in MS. Therefore, it is essential to focus on how newly proposed solutions will contribute to supporting the activities and strengthening cooperation of specific law enforcement entities and those ensuring internal security.

3. Support of agreed law enforcement cooperation

- **The aim of new IT systems should be to support agreed existing law-enforcement workflows, intelligence models and intelligence requirements or enable new forms of cooperation and information exchange.**

Because existing law enforcement agencies, which already use established information technologies, will be the core users of newly designed databases/information systems, it is important to design these new systems with special regard to established and successful practices and operational requirements. Also, when new types of information exchange are proposed the intended use in practice must be established first, so that development and implementation of technical solutions can support it.

4. Taking account of research and development made by institutions and the private sector

- **Taking advantage of efforts already made by other institutions and by the private sector**

In order to ensure maximum efficiency and availability of state-of-the-art technologies which conform to the particular needs, the preparation and implementation of new databases or information systems should take stock of results and progress made by research institutions and the private sector, thus avoiding duplication of work and re-inventing the wheel.

5. Management criteria:

a. Organisation of development and sharing of modern information security tools

- **Involvement of MS from the very initial stage of the process of development of new databases/IT systems.**

This is important criterion which should guarantee that new databases or information systems will adequately serve the collective security goals of EU MS. It should also ensure the active participation of MS law enforcement authorities in the definition of the business requirements. MS role in the steering of development and in the management of common solutions should also be addressed.

b. criteria for preparation and implementation of new instruments

- **Ensuring smooth preparation and implementation of instruments and systems**
 - realistic and technically feasible planning;
 - harmonisation of the technical parameters of solutions;
 - ensuring sufficient security;
 - project management system equipped with alternative solutions and monitoring mechanisms, which would react to new problems;
 - stabilisation of complex projects through stages (each stage beginning after the previous stage has been successfully completed); and
 - other mechanisms of protection of investments.

6. Technical criteria

a. interoperability

- **The principle of interoperability and coordination between specific IT systems.**

New systems must comply with standards and principles which support interoperability and coordination between existing systems of information exchange.

b. standard technical solutions

- **Good practices with regard to standard technical solutions.**

Systems for processing and exchange of information should emanate from tried and tested methods and concepts.

Evaluation of the responses to the questionnaire on the practical needs of law enforcement**Summary of the questionnaire and its purpose**

The questionnaire was distributed by the Presidency in March and April 2009 (CM 1645/09 JAI CRIMORG ENFOPOL) and aimed at mapping the practical needs of law-enforcement authorities with regards to the usefulness of particular information for their everyday activities, with a view to establishing whether there is clear overall practical EU-wide need to improve the exchange of particular types of information. The questionnaire addressed the following questions to the Member States:

1. What types of information would, when shared more efficiently, most benefit law enforcement practices?
2. For what purposes do law enforcement agencies need to share these types of information most?
3. Is such information typically needed in an urgent manner (specify time)?
4. Is it appropriate for law enforcement authorities to use existing information systems, or other means of exchange for the purposes of such exchanges? If so, which ones?

Replies were received from 21 out of 27 Member States (AT, BE, BG, CY, CZ, DE, ES, EE, FI, FR, HU, LT, MT, NL, PL, PT, RO, SI, SK, SE and UK). The Presidency would like to thank all those that contributed to the effort.

The Presidency believes that the following evaluation of the questionnaire may assist in better understanding of the practical needs of law-enforcement authorities in Member States and stimulate exchange of views with regards to the preparation of the Stockholm Programme. Following trends may be observed by analysing the responses:

Significant diversity of replies reflecting national specificities

Question 1

On the whole, the types of information given in answer to the first question differed significantly, which probably reflects national specificities. Thus, for instance, Romania would most benefit from sharing information about persons tracked down in relation to prostitution-related crimes, illegal adoptions and child abuse and trafficking (among others), whilst Lithuania, for example, would most benefit from receiving information about telephone subscribers without resorting to mutual assistance, identification of e-mail users and bank-account users. On the other hand, the United Kingdom indicated need to use - for police purposes - rather narrowly defined categories of criminal convictions and fingerprints exchanged between Member States. In general, there was no significant, let alone prevailing, preference for improved sharing of any well-defined set of specific data.

Question 4

Similar diversities were reflected in the fourth question regarding means of exchange. On the one hand, the replies clearly show that certain Member States prefer the use of one or two information systems for exchanging all kinds of information, while others are prone to varied means of exchange. Hence, Malta featured the use of SISNET mail exclusively (for purposes of exchanging personal information, criminal records, vehicle records and telephone numbers), whilst Cyprus listed close to ten information systems, including Europol, Interpol, Prüm, SIS, and SIRENE among others (though for different categories of information).

Vaguely discernible trends

Question 1

One trend is noticeable when it comes to the types of information MS would like to share more efficiently: personal data, belonging to persons suspected of, involved in, or having committed crimes of various sorts. Slovakia mentioned the usefulness of any information with regard to minor crimes below 1 year of imprisonment. In a similar vein, several respondents expressed an interest in more efficient sharing of information about missing persons, criminal records, telephone numbers, IP addresses, bank accounts and registered vehicles. Cyprus and Spain both mentioned information concerning football matches with an international dimension. It may be concluded that only very small groups of Member States indicated the same or very similar categories of data as priorities for improvement. Apart from generally felt need to share personal data of suspects or offenders, no clear set of data emerged as an area for improvement.

Question 2

Almost uniformly, respondents mentioned identification and detention of persons suspected of, involved in, or having committed crimes of various sorts as the capital purpose of information exchange. While other purposes for information exchange have been mentioned, it appears that crime prevention, investigation and prosecution are the motors of EU-wide information exchange.

Question 3

With regards to urgency, two general categories may be identified. Personal data pertaining to persons involved in crimes are usually wanted promptly (within 24 hours). This concerns most of the categories of information to be exchanged. On the other hand, certain kinds of information (criminal records, information on illegal immigrants) were mentioned as not being needed urgently, or only needed urgently under pressing circumstances.

Question 4

No majority preference for one or several information exchange mechanisms could be inferred from the responses. As mentioned above, different law-enforcement services among the Member States prefer different kinds of information exchange mechanisms, and their scope is very wide.

Nonetheless, Interpol, Europol and Prüm channels were mentioned more often than others. It may be concluded that no new systems for information exchange were asked for as a matter of priority. However, a lack of uniformity among the systems and mechanisms already in place was critically noted in some responses. In this context, it should be noted that Germany indicated a need to enhance the interoperability of the information generated by currently used systems by developing common technical solution for structuring the content of information accessible in various systems.

Other concerns

Several Member States made it clear in their responses that there is no need to produce any wish-lists that would simply put together all possible items reported by law enforcement agencies. Also, some replies stressed the need to adopt top-down approach in development of strategic vision. While such concerns are legitimate, the Presidency believes that, in the context of strategic discussions, it is also important to gather information on problems encountered in practice by European law enforcement. As the aim of the questionnaire was to identify possible essential EU-wide needs and with regard to very divergent replies to the questionnaire, the Presidency does not plan to elaborate any wish-list on this basis.

Final Assessment

The sum of the received responses shows great diversity among MS with regards to information whose more efficient exchange would be most beneficial. Hence, it does not provide clear grounds to suppose that a particular EU-wide new instrument is needed at present as a matter of priority to facilitate the exchange of specific kinds of information.

However, the responses tend to stress that police cooperation between MS should be fostered and made easier, so as to allow police officials, when the need arises, to swiftly and efficiently access that information which they require. Also, the results show that combating and preventing crime is considered the most important purpose of cross-border information exchange as regards the need for further improvement. Further EU endeavours should therefore take these findings into account.
