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NOTE

from : Presidency
to : Ad Hoc Group on Information Exchange

Subject : Implementation of the “Prüm decisions” regarding fingerprints
– Good practice for consulting Member States' databases

The technical limitations on the search capacity of Member States' databases is an issue often raised in connection with the implementation of Decisions 2008/615/JHA and 2008/616/JHA of 23 June 2008 (“Prüm Decisions”).

The varying scale of national databases, partly linked to population size, has led experts to doubt whether the databases of the less-populated States are able to deal with other States' searches. At times there are even concerns that databases may be damaged by overwhelming search volumes.

This is why Article 13(1) of the implementing Decision (2008/616/JHA) lays down that "Each Member State shall ensure that its search requests do not exceed the search capacities specified by the requested Member State".

One technical solution is to cap the daily number of searches allowed for each requesting State and requested State.

The second way of addressing the concerns expressed is to lay down good practice for using the new investigative opportunities provided.

This approach would also limit Member States' need to acquire new technical expertise, since potential matches would have to be examined by specialists of the requesting State.

It is accordingly suggested that the following practices be approved:

The following practices should be promoted at operational level when deciding on which Member States' databases to search, the order of searches and repeat searches:

1. The choice whether to consult Member States' fingerprint databases and the order in which such searches are carried out and repeated are investigative decisions taken on a case-by-case basis and should not be predetermined systematically.
2. Other Member States' fingerprint databases should in principle not be searched until the requesting State's own fingerprint database(s) have been searched.
3. The decision to search the databases of one or more Member States should take account of any relevant factors, and especially:
 - the seriousness of the case; ¹
 - and/or existing lines of investigation, in particular information pointing in the direction of a State or group of States; ²
 - and/or the specific requirements of the investigation. ³

¹ For example, a case of homicide would warrant more extensive use of European databases than would a burglary.

² For example, an armed robbery committed in Belgium near the French border would be reason for the Belgian services to start with a rapid search of the French database.

³ For example, the need to identify someone who has been stopped and whose identity seems suspect.

4. General searches should only be undertaken where the good practice in points 1 to 3 has been exhausted. The largest databases are statistically more likely to provide identification, though consideration should be given to the “relevant factors” set out in point 3 before conducting such searches.

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