



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 4 April 2012**

**5929/2/12  
REV 2**

**LIMITE**

**JAI 49  
DAPIX 13  
CRIMORG 9  
ENFOCUSTOM 7  
ENFOPOL 21**

**NOTE**

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from:	Presidency
to:	Working Group on Information Exchange and Data Protection (DAPIX)
Subject:	Draft Council Conclusions on further enhancing efficient cross-border exchange of law enforcement information

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On 31 January 2012 the Presidency submitted to DAPIX draft Council Conclusions on further enhancing efficient cross-border exchange of law enforcement information. The draft Council Conclusions were preliminarily discussed at the DAPIX meeting on 1 February 2012. Delegations were subsequently invited to send any further comments in writing by 16 March 2012.

The Presidency has redrafted the Council Conclusions in light of the received comments. DAPIX discussed the draft at its meeting on 28 March 2012 (doc. 5929/12) and reviewed it (doc. 5929/1/12 REV 1). The current revised version includes the latest changes (underlined) following the meeting.

With a view to submitting the draft Council Conclusions to the Council for approval on 26/27 April 2012, delegations are invited to submit possible further remarks by 2 April 2012 at the latest.

**DRAFT COUNCIL CONCLUSIONS ON FURTHER ENHANCING EFFICIENT  
CROSS-BORDER EXCHANGE OF LAW ENFORCEMENT INFORMATION**

**THE COUNCIL OF THE EUROPEAN UNION**

**RECALLING** that one of the main priorities of the Stockholm Programme is to ensure the security of EU citizens through co-operation between law enforcement authorities of Member States;

**ACKNOWLEDGING** that effective information exchange across the European Union is crucial to law enforcement authorities in their efforts to detect, prevent and investigate criminal activities across borders;

**RECALLING** the principle of availability as laid down in the Hague Programme as the general political and practical guidelines for the exchange of law enforcement information in the European Union;

**RECOGNISING** that for exchanged information to be used efficiently the right information should be available to the right persons in the right place at the right time;

**ACKNOWLEDGING** that a considerable number of initiatives in the area of criminal intelligence and information exchange have been implemented over the past years;

**RECOGNISING** that the 2011 Council Conclusions on the implementation of Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union (“Swedish Framework Decision”) encourage Member States to make appropriate use of the possibilities of the Swedish Framework Decision;

**CONSCIOUS** that the Swedish Framework Decision has not yet reached its full potential;

**CONSCIOUS** that new tools such as structured information exchange (UMF II) at the European level and the implementation of the principle of equivalent access (...) could enhance information exchange;

**CONSCIOUS** that the effective implementation of Council Decision 2008/615/JHA and of Council Decision 2008/616/JHA on implementing Council Decision 2008/615/JHA ("Prüm Decisions") is important in improving European cross border exchange of information;

**RECALLING** that the Commission will be submitting to the Council the report on the implementation of the Prüm Decisions;

**BEARING IN MIND** that Directive 2011/82/EU of 25 October 2011 (CBE Directive) facilitates the cross-border exchange of information on road safety related traffic offences and which has to be implemented by 7 November 2013 by those Member States bound by this Directive;<sup>1</sup>

**ACKNOWLEDGING** that there is a need for further consolidating cross-border information exchange and fully implementing existing instruments in this field in a coherent manner;

**BEARING IN MIND** that Member States should fully implement law enforcement information exchange instruments formerly adopted under the third pillar by 1 December 2014 in order to avoid possible infringement procedures;

**BEARING IN MIND** the Council Conclusions of 30 November 2009 on an Information Management Strategy for EU internal security, the action list for the implementation of the Information Management Strategy and the ongoing work of supporting, streamlining and facilitating the management of information in the European Union;

**CONSCIOUS** that national structures, competences and legal frameworks for cross border information exchange vary from Member State to Member State;

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<sup>1</sup> BE, ES, FR, IT, ~~PL~~ and PT were against the mentioning of the CBE Directive.

**RECALLING** the recommendation for setting-up permanent (international) cooperation structures between all separate law enforcement authorities by the Member States as laid down in the final report of the third round of Mutual Evaluations;<sup>2</sup>

**ACKNOWLEDGING** that the study by the International Centre for Migration Policy Developments (ICMPD) on the status of information exchange amongst law enforcement authorities in the context of existing EU instruments has pointed to the fact that Single Points of Contact covering all channels seem to be one of the most efficient tools for cross-border exchange of information, and that many Member States would benefit from establishing such a Single Point of Contact, which could channel the incoming information to the right authority within the Member State;

**ACKNOWLEDGING** that the mentioned study by ICMPD has also pointed to the fact that mutual exchange of personnel involved in cross-border exchange of information, is a highly effective way to increase the operational awareness of legal instruments, operational procedures, information network, technical systems and capabilities across Member States;

**ACKNOWLEDGING** that the above mentioned study by ICMPD concludes that greater use of EUROPOL as a communication channel and information source could be a key factor in boosting efficiency;

**RECALLING** that the Stockholm Programme states that EUROPOL should become a hub for information exchange between the law enforcement authorities of the Member States not excluding the possibility to use other reliable channels of law enforcement information exchange among the Member States;

**ACKNOWLEDGING** the importance of good coordination and alignment of investigative efforts spread over different Member States within the framework of Joint Investigation Teams (JITs) and the challenges imposed by the inadequacy of the current tools for cooperation and case management available to the officers on the ground to cooperate directly with all foreign partners involved in the case;

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<sup>2</sup> Doc. 13321/3/07 CRIMORG 141 ENFOPOL 152 ENFOCUSTOM 93.

**ACKNOWLEDGING** that Member States – due to national differences in criminal procedures – should take into account that a case may enter the legal phase of the criminal prosecution sooner in some Member States than in other Member States;

**ACKNOWLEDGING** that the use of EUROJUST in criminal matters can help accommodate some of the challenges deriving from differences in national requirements and procedures for exchange of information;

#### **INVITES THE MEMBER STATES**

- to implement and fully apply all existing legal instruments for the exchange of law enforcement information, in particular the Swedish Framework Decision and the "Prüm Decisions"<sup>3</sup>
- that have not already done so, to explore the possibilities of establishing a Single Point of Contact covering all channels in particular in regard to the exchange of law enforcement information concerning cross-border activity requiring 24/7 support;
- to promote mutual exchange of personnel involved in cross border exchange of information;
- to further enhance the use of EUROPOL as channel for exchanging information;
- to make better use of the capabilities of EUROJUST in order to accommodate some of the challenges that derives from different requirements and procedures for exchange of information in the legal phase of the criminal prosecution;

#### **INVITES EUROPOL**

- to gather the business requirements for the exchange of information and case management within Joint Investigation Teams (JITs) in consultation with the Member States' practitioners and to accommodate those needs by means of its information exchange tool SIENA;

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<sup>3</sup> AT/DE suggested that Member States accomplish the implementation of the Prüm Decisions by 26 August 2013 in order to allow all Member States the full use of this indispensable instrument for the combat against terrorism und and cross-border crime. IT, HU, SE, PL, PT and UK were against this proposal. FR was in favour.

## **CALLS UPON THE COMMISSION**

- to submit the report on the implementation of the Prüm Decisions to the Council;
  - to focus its work on the implementation of the Information Management Strategy on
    - coherence and on fostering the usage of already existing instruments;
    - the fact that exchange of information needs to be swift, effective, simple and without unnecessary formal requirements with proportionate data protection safeguards in place;
  - to take into account these Conclusions in its Communication on the European Information Exchange Model (EIXM).
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