



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 7 February 2012

6097/12

**JAI 56
DAPIX 14
CRIMORG 11
ENFOPOL 25
TRANS 29**

OUTCOME OF PROCEEDINGS

of : Meeting of the Working Group on Information Exchange and Data Protection
(**DAPIX**)
on : 1 February 2012
Subject : Summary of discussions

1. Adoption of the agenda

The agenda set out in doc. CM 1302/12 was adopted with a change in point 4.3: the IMS project on PCCC was replaced by a presentation of the IMS project on Prüm post hit procedures.

2. Information from the Presidency

The Presidency informed about

- the Council having adopted the Decisions on the launch of DNA data and dactyloscopic data with LT, CZ and NL on 13 December 2011 and 23 January 2012 respectively;

- the modifications made to the meeting calendar, namely a whole day VRD expert meeting on 7 March and a parallel DAPIX plenary and FP/DNA expert meeting on 28 March;
- discussions to be held on statistics on all three types of data exchange at the forthcoming expert meetings in view of which MS were reminded to submit figures on the exchange of DNA data and dactyloscopic data as soon as possible if they had not yet done so;
- the launch of discussions on the Commission's "data protection package"¹ at the DAPIX (data protection) meeting of next 23-24 February;
- the Commission having decided to take court action against the legal basis of Directive 2011/82/EU on the enforcement of cross-border information exchange concerning road safety related traffic offences.

3. Discussions on the way to improve efficient and simplified exchange of information

3.1 Business case on gathering information exchange requirements for Joint Investigation Teams (JITs) - Presentation from EUROPOL

The EUROPOL representative outlined current assessment activities at EUROPOL on how to most efficiently allocate 5 mio. € assigned in the EUROPOL budget for the deployment of JITs. Welcoming these activities delegations stressed the importance of integrating different ongoing EUROPOL initiatives and asked about modalities concerning cooperation with third countries. The EUROPOL representative promised further detailed explanations for the next DAPIX meeting.

3.2 Ways to improve efficient and simplified exchange of information: tasking of the experts

The Presidency outlined issues to be discussed by experts attending the breakout session, in particular the benefits and challenges on national SPOC activities and the exchange of personnel for training purposes.

¹ see docs. 5852/12 DATAPROTECT 8 JAI 43 MI 57 DRS 10 DAPIX 11 FREMP 6; 5833/12 DATAPROTECT 6 JAI 41 DAPIX 9 FREMP 8 COMIX 59 CODEC 217 + ADD 1 + ADD 2; 5834/12 DATAPROTECT 7 JAI 42 DAPIX 10 FREMP 9 COMIX 60; 5853/12 DATAPROTECT 9 JAI 44 MI 58 DRS 9 DAPIX 12 FREMP 7 COMIX 61 CODEC 219 + ADD 1 + ADD 2

The outcome of the breakout session to be reported back to the plenary session would serve as an input when redrafting the Council Conclusions on further enhancing cross-border law enforcement information exchange (see below pt. 8).

3.3 Breakout session

The chair informed to the plenary session about frank discussions among information exchange practitioners focused on the following issues:

(a) Possibilities to simplify information exchange via establishing SPOCs:

Common agreement had been reached on the need to simplify information exchange. It was discussed whether heads of SPOCs should regularly gather in order to tackle cross-border operational problems. However, some delegations voiced concerns that this could lead to a duplication of efforts next to similar Interpol, Europol and SIENA officer meetings and extra costs without having a clear idea of the added value of such meetings.

Identifying a unique work flow and SPOC architecture gathering Interpol, Europol and Sirene officers under one roof was difficult due to different national approaches. An un-coordinated, even inappropriate choice of communication channels was considered an obstacle for enhancing cross-border information exchange.

Practitioners recommended to agree on a "no return to sender"- policy so that incorrectly addressed messages should be distributed to the intended recipient instead of being sent back by the SPOC concerned.

The suggestion of a mapping exercise in order to get an overview of how SPOCs function in MS was not supported in the plenary meeting. The idea of setting up a DAPIX subgroup as a standing forum for SPOC issues was also met with caution though the need of exchanging best practices was recognised. One delegation suggested instead that such as for the IMS project dealing with PCCC issues a SPOC IMS project group could be set up and deal with the issue of setting up of a SPOC network.

(b) Possibilities for exchange of SPOC personnel:

The mutual exchange of personnel, be it formal or informal, was considered to be extremely useful. The chair referred to the national CEPOL points and, as a further option, to the EU "Leonardo da Vinci"-programme for professional training to be consulted for developing and funding training schemes.

In the plenary meeting, the Presidency suggested to deal with defining common educational needs at the COPE April conference (see below) and to ask CEPOL whether it could contribute to the conference by presenting a training scheme.

4. Information Management Strategy

4.1 2nd IMS Action list 1.7.2011-31.12.2012 - Overview of activated/proposed actions

Delegations took note of explanations from the Presidency on the overview set out in doc. DS 1041/12 regarding action No. 7 and information still to be updated regarding action No. 6.

4.2 Action 1 : European Information Exchange Model (EIXM)

The Commission orally presented the state of play of its future Communication on the EIXM scheduled for end 2012.

Taking account of the IPMCD study and work done in DAPIX, in particular within the IMS framework, the Communication would not submit new legal proposals but present a coherent picture on the EIXM issue, namely

- a description of existing cross-border law enforcement information exchange,
- concrete recommendations concerning the SFD and the "Prüm Decisions", on the outcome of the EPRIS feasibility study, as well as on results of IMS projects such as the SPOC, PCCC, UMF projects,
- future steps to be taken in this area.

National experts would be invited to discuss a preliminary draft at a meeting provisionally planned in the Borschette Centre/Brussels on next 29 May.

As to possible recommendations to change information exchange procedures the Commission could submit, one delegation asked for a solid cost/benefit analysis.

4.3 Action 6 : Prüm post hit procedures

Launching action No. 6, delegations took note of the FI note on Prüm post hit procedures (see doc. 5709/12 DAPIX 7 ENFOPOL 18 CRIMORG 8 ENFOCUSTOM 4) which would serve as the basis for in-depth discussions within the action group concerned.

4.4 Information regarding the conference in April 2012

The Presidency pointed to the invitation to the COPE Conference at EUROPOL's headquarters in the Hague on 26/27 April 2012 and the registration form submitted to delegations ahead of the meeting. The aim of the conference is to specify a follow-up on progress made on the IMS. To that end a forthcoming preparatory meeting would define the programme on which delegations would be informed at the DAPIX meeting of 28 March. One delegation suggested to possibly take into account first results of the EPRIS feasibility study (see below pt. 7).

5. Implementation of Council Decisions 2008/615/JHA and 2008/616/JHA

Matters for interpretation - VRD evaluation visits

The main issues at stake were set out in doc. DS 1018/12 and concerned

- the reliability of an evaluation visit report based on data gathered from a provisional, i.e. testing platform instead of the definite production environment,
- the scope of the term "competent authority" in Article 27 of Council Decision 2008/615/JHA.

Delegations agreed that the first issue concerned Prüm data exchange evaluation in general. However, since the problem emerged during a VRD evaluation visit, DAPIX tasked VRD experts to identify pragmatic solutions within the scope of national administrative procedures which match respective national data protection legislation. However, it was excluded by the CLS that an evaluation report pointing to pending conditions could serve as the basis for a legally binding Council Decision to start the exchange of personal data in the Prüm framework.

The CLS explained that the notion of "competent authority", i.e. who can process personal data supplied, has to be understood in the context of both the threefold purpose of processing supplied Prüm data (matching of data, request for legal assistance, recording) explained in Art. 26 (2) of Decision 2008/615/JHA, and the particular aim of the Decision, namely the exchange of information for the purpose of prevention and investigation of criminal offences as set out in Art. 1 of Decision 2008/615/JHA. Against the backdrop of this restrictive concept it would remain a matter of national competence to eventually identify the competent authorities concerned.

Finally, with regard to the regular update of the list of available VRD per country suggested by the BE delegation, one delegation suggested that this would be dealt with at VRD expert level and not in each DAPIX meeting.

6. Prüm Council Decisions

6.1 Implementation - *State of play*

Delegations took note of doc. 5086/12 JAI 5 DAPIX 3 ENFOPOL 5 CRIMORG 3 setting out the current state of implementation and were invited to submit possible modifications to prum@consilium.europa.eu in order to regularly update information on the state of play.

The VRD lead expert informed about successful tests with IT and IE. As soon as the replies to both the relevant questionnaires on data protection and VRD are submitted to the GSC, the evaluation procedure could be formally envisaged.

HU informed about DNA test runs with AT and FP test runs with AT and SK.

- Lists of national contact points DNA, FP

Delegations took note of doc. DS 1037/12, DS 1039/12 and were invited to submit possible modifications to prum@consilium.europa.eu.

6.2 Organisation of evaluation visits

- Indicative calendar for evaluation visits

Doc. DS 1007/12 was modified to include the information that RO scheduled the FP evaluation visit for September and LV postponed the VRD evaluation visit to May.

- List of experts participating in DNA, FP evaluation visits

Delegations took note of doc. DS 1013/1/12 REV 1 and DS 1038/12 and were invited to submit possible modifications to prum@consilium.europa.eu.

6.3 Ongoing evaluation

Data protection

Delegations took note of the second revised PL reply to the questionnaire on data protection set out in doc. 6675/2/10 REV 2 DAPIX 62 CRIMORG 35 ENFOPOL 45.

7. **EPRIS** - Information from the Commission

The Commission outlined the state of play of the study on how to improve efficiency in the exchange of police records between MS by setting up a European Police Record System (EPRIS) and presented the four different scenarios currently under consideration, namely

- no new system,
- a centralised option, i.e. a central index on EU level with storage of minimum data,
- a semi-centralised option, i.e. a central forwarding system on EU level without data storage,
- decentralised option, i.e. a Prüm like system.

Delegations were invited to an expert meeting to discuss the outcome of the questionnaire and the study visits. This meeting would probably be held on 19 April and the presentation of findings could be an item on the DAPIX agenda of 22 June.

One delegation reminded the Commission that the EPRIS idea was to get a simple, operational and cheap system and that unlike ECRIS data EPRIS data had not been consolidated at European level. The delegation advised the Commission to not include Prüm data. Furthermore, it excluded a preference for the centralised option and asked whether procedures such as administrative researches in case of recruiting procedures could be considered as well.

8. Draft Council Conclusions on efficient exchange of information

Due to the short notice of supplying the draft Conclusions (see doc DS 1058/12) to be adopted by the Council at 26-27 April, the Presidency briefly outlined the content and postponed a thorough discussion to the DAPIX meeting of 28 March. To that end, delegations were invited to examine the draft and submit comments by 16 March at the latest in order to prepare the basis for further drafting at the upcoming meeting.

A preliminary exchange of views on the draft focused on whether the Conclusions should take account of the "Prüm Decisions" and on the understanding of to what extent data exchange with EUROPOL should be enhanced.

9. Any other business

No issue was raised under this point.