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**NOTE**

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From:	Presidency
To:	Delegations
Subject:	Proposal for the possible inclusion of national databases on firearms and their owners in the future Prüm framework

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**1. Main Purpose**

Significant progress on cooperation in the field of internal security across the Union has been achieved in recent decades. Fighting national and cross-border crime requires daily operational cooperation and information exchange between the Member States' (MS) law enforcement authorities. In this regard, it is important to enhance the coordination of policing throughout the European Union in order to respond to evolving security challenges. The Prüm framework is a valuable instrument in the area of police cooperation.

Twelve years since the adoption of Council Decisions 2008/615/JHA and 2008/616/JHA ('Prüm Decisions') there is a need to update some procedures and establish new ones to improve cooperation between the Member States'. Ultimately, the aim is to strengthen cooperation between the MS, so that information necessary to perform police duties is made available to a law enforcement officer in one MS by another MS that holds the information searched for, in accordance with applicable law.

## 2. Context and Legal Framework

- a) Between 1 January and 30 June 2021, Portugal takes over the rotating Presidency of the Council of the EU (PPEU 2021) and considers it a necessity to ensure the continuous improvement of information management and the optimisation of the use of existing instruments and agreements for information exchange.
- b) The Standing Committee on Internal Security (COSI) will continue to promote new initiatives enhancing internal security in connection with the new EU Security Union Strategy by facilitating, promoting and strengthening, the coordination of EU Member States' operational cooperation in the field of internal security.
- c) In 2018, the Council had already underlined the importance of the Prüm framework and considered revising the Decisions to broaden their scope and update the necessary technical and legal requirements.
- d) Prüm promotes cooperation between EU law enforcement authorities by facilitating data exchange regarding DNA, fingerprints, and vehicle registration between the participating MS and setting out operational police cooperation rules.
- e) The Prüm Treaty of 2005 has been agreed by only seven MS but was designed, from the beginning, to be incorporated into European law, as has been done through Council Decisions 2008/615/JHA and 2008/616/JHA. Since then, Prüm has been a significant source of assistance in investigating crime across borders within the European Union.
- f) The growing number of participating MS has contributed to a significant increase in the number of automated data exchanges of all data types.
- g) In 2019, the Prüm network had over 9.2 million DNA profiles available for comparison throughout Member States databases, with more than 2.2 million DNA searches made in that year. There were almost 400 000 fingerprint searches and more than 16 million VRD searches in 2019.

- h) In a Union without internal borders and within the existing national and EU regulatory frameworks, quick and reliable information sharing between law enforcement authorities is needed. It is crucial that the MS are able to recognise public security threats at an early stage, especially with the rise of serious and organised crime, cybercrime and terrorist attacks.
- i) Council Directive 91/477/EEC, amended by Directive (EU) 2017/853, established an accompanying measure for the internal market. It created a balance between, on the one hand, the commitment to ensure a certain degree of freedom of movement for some firearms, and their essential components, within the Union and, on the other hand, the need to control that freedom using security guarantees suited to those products. This was underpinned in the Convention against transnational organised crime to facilitate the tracing of firearms and efficiently combat the illicit trafficking and manufacturing of firearms, their parts, and ammunition.
- j) In 2014, it was suggested that all MS should ensure that a computerised data file was established and maintained. The competent national authorities have access to the data files in which each of the firearms covered by the Directive is recorded.
- k) Having completed the transition phase, it is considered that the MS are now ready to improve the exchange of information regarding these records between one another while access by police, judicial and other authorised authorities, to the information contained in the computerised data-filing system must be in compliance with the European Convention for the Protection of Human Rights and Fundamental Freedoms.
- l) In order to combat terrorism, violent extremism, serious and organised crime and illicit trafficking in firearms, greater control over the movement of firearms, and automated consultation of information concerning the location, identification and possession of firearms and their owners, is becoming increasingly relevant as it eliminates the need for consultation on a point-by-point basis, through the designated contact points.

- m) Although the registration of stolen, missing or misappropriated firearms is already recorded in existing INTERPOL, Europol and SIS databases, it is of prime importance to extend the possibility to consult the national databases on remaining firearms, and their legitimate owners, in a rapid manner.
- n) In the light of increased challenges to internal security, the EU could consider when modernising the 'Prüm Decisions' with a view to open up automated exchange to additional data categories, which are already available in the Member States criminal or other databases for the purpose of criminal investigation, whether the Prüm framework should be completed by cross-border access to the data filing systems established in accordance with Council Directive 91/477/EEC, amended by Directive (EU) 2017/853.
- o) The Council Conclusions on Internal Security and European Police Partnership reiterate that information, necessary to perform the duties of a law enforcement officer in one MS be made available by another MS that holds the information, in accordance with applicable law, and request from the Commission to present a legislative proposal for the further development of the Prüm framework<sup>1</sup>.
- p) The Communication from the Commission on a Counter-Terrorism Agenda for the EU: Anticipate, Prevent, Protect, Respond establishes that, with a view to strengthening information exchange and in order to prevent, investigate and prosecute terrorist and other criminal offences, law enforcement authorities need access to the relevant information at the right time. The existing 'Prüm Decisions' have been instrumental in allowing the MS to fastly and directly exchange fingerprints, DNA, and certain vehicle registration data types. However, in the light of technical, forensic and operational developments, the 'Prüm Decisions' should be updated and could be further extended to better support MS in their investigations against organised crime, arms trafficking, or terrorism.

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<sup>1</sup> 13083/1/20 REV 1.

q) With a view to denying terrorists the means to attack, the above Communication also considers that national firearms focal points (NFFP) are essential to developing a genuine knowledge of the firearms-related threats by ensuring cross-departmental cooperation and cross-border exchanges of information and intelligence. Under the ‘firearms’ priority of the European Multidisciplinary Platform Against Criminal Threats (EMPACT), the Commission is expected to publish in 2021 a scoreboard displaying how much progress MS have made in establishing such focal points<sup>2</sup>.

### **3. Advantages**

Further automation in exchanging real-time information is considered a key solution for the future and a law enforcement operational need. In a complex global environment with massive amounts of available data, this technological support is considered crucial for law enforcement authorities activities.

The Prüm framework provides for consulting specific databases and for exchanging request and response messages in an automated way, which facilitates the availability of information and speeds up its exchange across borders in a remarkably rapid way.

### **4. Conclusions**

Law enforcement work is inherently an information-based activity. In order to successfully prevent and investigate terrorist activities and serious and organised crimes across borders, law enforcement authorities need to have fast, streamlined, systematic and lawful access to all the information required to perform their tasks.

In a Union without internal borders and in the light of the terrorist attacks involving firearms in recent years, it must be ensured that information about firearms involved in these cases is shared quickly and reliably between law enforcement authorities, within the existing national and EU regulatory frameworks.

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<sup>2</sup> Idem.

Serious and organised transnational crime and terrorist activities can only be tackled by effective cross-border police cooperation, in particular by accessing and exchanging relevant information. Common EU rules, standards and requirements, facilitate such access and exchanges, provide compatibility between different national systems, and help to ensure high-level security and data protection standards. Additionally, as the experience with the current Prüm framework shows, common standards allow for a certain level of automation in information exchange workflows, which frees law enforcement officers from certain labour-intensive manual activities.

## **5. Proposal**

There is a clear need to develop new and to strengthen current cooperation strategies to investigate crimes. Taking into consideration that the Prüm instrument has been in use for some time and could be amended to meet further needs, it is suggested that proposals be drawn up with the aim of developing a shared understanding and common indicative criteria among law enforcement authorities, such as the database of firearms and their owners, which could be included in a broadened Prüm framework.

In the light of the above, the Presidency suggests that the national databases provided for in Article 4 of Directive (EU) 2017/853 would become one of the databases that can be consulted in an automated way within the future Prüm framework.

## **6. Questions for discussion**

Therefore, delegations are kindly invited to analyse and express their point of view on the following questions:

- a) Do you agree with the proposal for the possible inclusion of national databases on firearms and their owners in a future Prüm framework? Do you think it is pertinent to continue the debate?

b) In case you agree to continue the debate, do you agree that it should take place:

- (1) first in LEWP to discuss and assess the necessity of including national databases on firearms, and their owners, in a future Prüm framework?
- (2) and then in IXIM to eventually discuss automated data exchange regarding firearms, in case such exchange is provided for by a legislative proposal from the Commission aiming at an amended Prüm framework?

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