

## **EXPLANATORY MEMORANDUM ON JUSTICE AND HOME AFFAIRS MATTERS**

**Draft Council Decision on the implementation of Decision 2007/.../JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime**

1. Submitted by the Home Office on 16 July 2007

### **SUBJECT MATTER**

2. Measures to implement the Council Decision on stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (Prüm Council Decision). The provisions primarily set out the main definitions, principles and systems to be used for the sharing of DNA, fingerprints and vehicle registration data by police and law enforcement agencies under the Prüm Council Decision.

### **SCRUTINY HISTORY**

3. None for this document. However, Home Office Minister Joan Ryan wrote to the Scrutiny Committees about the Prüm Council Decision on 2 February 2007. An Explanatory Memorandum on documents 6002/07, 6220/07 and 6566/07 was deposited on 5 March. The Commons' European Scrutiny Committee (ESC) considered it at their meetings of 7 March (report 28409, politically important) and 25 April and 16 May following further correspondence. The ESC cleared the proposal at their meeting of 6 June. It was sifted to sub-committee F of the Lords' European Union Committee (EUC) on 13 March following an evidence session on 7 March and the EUC held an inquiry. The EUC published its report (18<sup>th</sup> report of session 2006-07) on 9 May to which the Government responded on 15 May. A debate is still to be held in the Lords following the recommendation of the EUC.

## **MINISTERIAL RESPONSIBILITY**

4. The Home Secretary has overall responsibility for law enforcement in England and Wales. The Scottish Government Cabinet Secretary for Justice has responsibility for the justice portfolio in Scotland including policing. The Secretary State for Transport has responsibility for the Driver Licensing Agency and the data that they hold. The Secretary of State for Northern Ireland and Wales has responsibility for policing and justice in Northern Ireland.

## **LEGAL AND PROCEDURAL ISSUES**

### i) Legal basis

5. The legal basis for the draft Council Decision is Article 30(1)(a) and (b), Article 31(1) (a), Article 32 and Article 34(2)(c) of the Treaty on European Union (TEU).

### ii) European Parliament procedure

6. The European Parliament will be consulted in accordance with Article 39 TEU.

### iii) Voting procedure in the Council

7. The Council Decision will require unanimity.

### iv) Impact on United Kingdom Law (including Gibraltar)

8. The Government of Gibraltar did not participate in the original Council Decision and will not consequently participate in this implementation Decision.

9. Primary legislation will not be required for this document.

## **APPLICATION TO THE EUROPEAN ECONOMIC AREA**

10. The draft Council Decision does not apply to the non-EU EEA States.

## **SUBSIDIARITY**

11. The draft Council Decision complies with the principle of subsidiarity.

## **POLICY IMPLICATIONS**

12. The Government signalled its agreement to the Prüm Council Decision at the JHA Council on 12 June. The Prüm Council Decision will allow for the more effective sharing of DNA and fingerprint data which is already shared; speeding up the process by which information can be obtained for law enforcement purposes. It will also allow for direct access to vehicle registration data for serious crime. The Government therefore supports in principle this new draft Council Decision which sets out the main principles for the implementation of the Prüm data sharing arrangements.

13. This document defines the main terms which will be used and sets standards for DNA and fingerprints. It allows for the restriction on the number of searches; sets out the networks which will be used; and sets out some basic operational principles such as the information which should be contained in a request or response.

### Manual

14. The document refers at several points to a, “jointly produced Manual”. We expect a draft of this Manual to be formulated and released during the Portuguese Presidency. It will set out the specifics of the implementation and is likely to be discussed in detail at working group level. The Government will submit a formal EM as soon as a formal document is published.

### Restriction of access to vehicle registration data for serious crime

15. The Government is considering the document in detail however on first reading we believe the document needs to reflect recital (15a) of the Prüm Council Decision. This recital allows for Member States to “decide to give priority to combating serious crime” in the implementation of the Article 12. We believe that the implementing agreement should reflect that Member States may restrict access to vehicle registration data to serious crime and plan to raise this issue during negotiations.

## **REGULATORY IMPACT ASSESSMENT**

16. A regulatory impact assessment is not required as this proposal has no impact on public or private sectors, charities, the voluntary sector or small business.

## **FINANCIAL IMPLICATIONS**

17. The Council Decision incorporating elements of the Prüm Convention into the EU and this implementing agreement will not be without cost. The Government estimates the total start up cost for the UK to be in the region of £31 million pounds for exchange of fingerprint, DNA and vehicle registration data. This figure is subject to change depending on the feasibility study and final decisions on system specifications that represent best value. We do not consider this an unreasonable figure considering the benefits that the Prüm arrangements could bring to the prevention and investigation of crime across Europe.

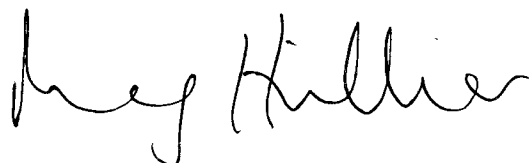
18. I must stress that these are informed but necessarily limited estimates of cost based on the information currently available.

## **CONSULTATION**

19. The Government will be consulting the devolved administrations with regard to this proposal.

## **TIMETABLE**

20. The Portuguese Presidency is likely to be seeking agreement on the Decision by the end of 2007.

A handwritten signature in black ink, appearing to read 'Meg Hillier', written in a cursive style.

**MEG HILLIER**

**PARLIAMENTARY UNDER SECRETARY OF STATE  
HOME OFFICE**