



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 27 November 2009

16623/09

LIMITE

**CRIMORG 175
ENFOPOL 303**

NOTE

from: Austrian Delegation
to: Delegations
Subject: The Prüm Decisions - the need for a focused approach on the implementation

1. On 27 May 2005 Belgium, Germany, Spain, France, Luxembourg, the Netherlands and Austria signed in Prüm/Germany the Treaty on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration (Prüm Treaty). Since then Finland, Slovenia, Hungary, Bulgaria, Romania, Slovakia and Estonia have acceded to the Treaty. By November 2009 the Treaty is in force in 14 Member States of the European Union.
2. The Treaty foresees an array of police cooperation measures: the exchange of DNA profiles, dactyloscopic data, vehicle registration data, non-personal and personal data for major events and information in order to prevent terrorism, the cooperation in the field of air marshals, document advisers and in joint operations, assistance in repatriation measures and in connection with mass gatherings, disasters and serious accidents.

3. Among the most powerful provisions are the automated searching and comparison of DNA profiles and the automated searching of dactyloscopic data and vehicle registration data. For these provisions sophisticated and comprehensive legal, administrative and technical solutions have been developed. By November 2009 the following Contracting Parties of the Prüm Treaty have become operational for these provisions:
- *For DNA profiles*: Germany, Spain, France, Luxembourg, the Netherlands, Austria, Finland, Slovenia, Bulgaria and Romania.
 - *For dactyloscopic data*: Germany, Spain, Luxembourg, Austria, and Slovenia.
 - *For vehicle registration data*: Belgium, Germany, Spain, France, Luxembourg, the Netherlands and Austria
4. The following figures for Austria prove how successful the Treaty is. By 9 November 2009 Austria had the following hits/requests under the Prüm Treaty:
- *For DNA profiles (operational since 5 December 2006)*: **6930** hits
 - *For dactyloscopic data profiles (operational since 29 May 2007)*: **2490** hits
 - *For vehicle registration data profiles (operational since 18 September 2008)*: **614** requests from Austria to other Contracting Parties; **6820** requests from other Contracting Parties to Austria
5. The success of the Prüm Treaty convinced all Member States of the European Union. Therefore within one and a half year the Council adopted two Decisions, transferring relevant parts of the Prüm Treaty into the legal framework of the European Union:
- Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly terrorism and cross-border crime;
 - Council Decision 2008/616/JHA of 23 June 2008 on the implementation of the Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly terrorism and cross-border crime.

The Council Decision 2008/615/JHA of 23 June 2008 foresees in Article 36 that the Member States shall take the necessary measures to comply with the provision of the Decision

- for the supply of non-personal and personal data for major events, the supply of information in order to prevent terrorist offences, joint operations and assistance in connection with mass gatherings, disaster and serious accidents **by 26 August 2009**;
- for the exchange of DNA profiles, dactyloscopic data and vehicle registration data by **26 August 2011**.

6. On EU level COREPER has tasked the Ad Hoc Group on Information Exchange with the implementation of the Prüm Decisions in particular with regard to DNA profiles, dactyloscopic data and vehicle registration data. Three sub groups on these subjects have been established to tackle the technical aspects of the implementation. The Ad Hoc Group has drawn up questionnaires and procedures for the preparation of Council Decision 2008/JHA/615 according to Article 25 (2) thereof. Therefore all legal requirements for the full use of the Prüm Decisions on the EU level are in place.

Furthermore it was agreed, that non-operational Member States should ask operational Member States for support as partners in the technical implementation and for pilot runs and study visits as foreseen by the procedures.

7. On national level the implementation of the Prüm Decisions in particular for the exchange of DNA profiles, dactyloscopic data and vehicle registration data requires comprehensive and extensive efforts. This includes e.g.:

- The legal implementation of the Decisions according to the Member States' constitutional requirements;
- The allocation of human and financial resources for the implementation and the running of the Prüm systems;
- The designation of national contact points;
- The preparation of instructions/manuals for the use of the new legal instruments;
- The training of staff;
- The raising of awareness on the new instruments in the law enforcement community;
- The adaptation of the national databases and workflows in line with the Prüm requirements.

The implementation of the Prüm Decisions is a multidisciplinary task requiring the cooperation of legal, forensic and technical experts.

8. In order to guarantee an effective and efficient implementation of the Prüm Decisions some good practices should be taken into consideration. E.g.:
- The designation of a national coordinator for all activities;
 - The preparation of a Prüm Action Plan containing all measures necessary for the full implementation of the Decisions;
 - The setting up of partnerships between non-operational Member States and operational Member States in order to achieve the necessary support;
 - The application for EU financed projects.
9. The Austrian delegation has growing concern, that in some Member States the implementation of the Prüm Decision is seriously delayed. There is also concern that not all Member States are fully aware of the complexity of the implementation. In fact, the implementation not only requires a clear political will, an implementation strategy and an implementation plan, human and financial resources, but also time. Time will become the crucial factor as by 28 August 2011 the Prüm Decisions have to be fully implemented **by all Member States**.

Therefore the Austrian delegation proposes that

- **The next Trio Presidency of Spain, Belgium and Hungary put the issue of implementation of the Prüm Decisions high on the agenda of their EU Presidencies;**
- **Delegations check and monitor the respective national implementation and provide the necessary leadership and guidance in order to enhance and pool the national efforts;**
- **The operational Prüm Member States consider a stronger support for the non-operational Member States.**