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NOTE

From:	Presidency
To:	Working Party on Information Exchange and Data Protection (DAPIX)
Subject:	Information exchange developments, strengthening implementation and use of different systems - the focus of DAPIX

1. The European political context of developing law enforcement information exchange

The European Council of 26 and 27 June 2014 set out the strategic guidelines for legislative and operational planning within the area of freedom, security and justice for the period 2015 until 2020.¹ It stressed the importance of the Union backing national authorities in the fight against cross-border crime and terrorism by mobilising all instruments for judicial and police cooperation, with a reinforced coordinating role for Eurojust and Europol and, in particular by improving cross-border information exchange, including criminal records.

The renewed EU Internal Security Strategy 2015-2020 based on the European Agenda on Security², and both the Council Conclusions on 4 December 2014³ and 10 June 2015⁴, highlighted law enforcement information exchange as a lynchpin of European internal security.

¹ EUCO 79/14 CO EUR 4 CONCL 2

² COM(2015) 185 final

³ 15670/14 JAI 895

⁴ 9798/15 JAI 442 COSI 67

The Strategy stressed the need to fully implement rules already in place, such as the Prüm framework, and to adopt proposals already on the table, such as the PNR (passenger name record) Directive, the Europol Regulation and the Data Protection Package, since this would put in place a clear, secure, and properly regulated set of tools to give the authorities the information they need – as long as these tools are used to their full potential.

The Strategy also highlighted the need to continuously review key instruments like the Schengen Information System (SIS), the Schengen Border Code and ECRIS, and address identified gaps. In addition, a swift and flexible intelligence led approach, interoperability of different systems and the improvement of existing tools should be ensured to enhance exchange of information, and subsequently, to enable joint operations as well as to gather evidence for prosecution.

Furthermore, action should be undertaken to encourage the most appropriate choice of the relevant information exchange channel within the existing legal framework. In addition, border security through systematic and coordinated checks against the relevant databases should be reinforced.

Similarly, the European Agenda on Migration and the European Council Conclusions in June 2015 highlighted the need to increase the exchange and the use of information including through the available agencies (Frontex, EASO and Europol) and instruments such as Eurosur and immigration liaison officers.

Beside these strategic frameworks, also more phenomenon oriented Council Conclusions have highlighted the importance of correctly implementing information exchange instruments, and appropriately using relevant databases and central nodes for information exchange such as Europol. Recent examples are the Council Conclusions of 20 November 2015 following the terrorist attacks in Paris as well as the Council Conclusions on 14 September 2015 and the Valletta summit on 11 and 12 November 2015.

2. Current Situation

Important steps have been made to date following considerable inter-institutional efforts which have led to agreement on the data protection package, the Europol regulation and the EU PNR directive.

Additional steps by Member States, the European Commission and Europol (Prüm helpdesk) to implement Prüm have been undertaken and important actions are taken to step up the systematic use of and checks against existing national and European and international databases such as the Schengen Information System, Eurodac and INTERPOL databases.

In addition, important new proposals are expected such as the extension of ECRIS to third country nationals, the Smart Borders package in the first quarter of 2016, as well as a proposal for the revision of the legal base of the Schengen Information System at the end of 2016.

3. The focus of DAPIX

Many of the above mentioned initiatives are being dealt with in different Council fora Law enforcement authorities responsible for effective information exchange and the provision of information exchange systems are consulted or are directly involved in those discussions as the consequences of decisions taken have a direct effect on their work.

The described strategic guidelines and policy developments show that it is essential to ensure a topical and future oriented generic approach to strengthening law enforcement information exchange.

DAPIX pragmatically fulfills its pivotal role in this context. It does so by implementing the European Information Management Strategy (IMS) and the IMS action lists, the Council Conclusions and follow-up discussion on the European Information Exchange Model, by continuously updating and regularly reviewing the Law Enforcement Information Exchange Manual, and supporting and monitoring the implementation of both the Prüm Decisions and the Swedish Framework Decision.

4. Generic approach to strengthening law enforcement information exchange

The Presidency wishes to contribute, together with Member States, the European Commission, relevant EU agencies and where appropriate other stakeholders, to a topical and future oriented generic approach to strengthening law enforcement information exchange and, in this framework, to further determine the focus of DAPIX.

To this end, the Presidency wishes to examine first of all and together with the drivers of the current IMS actions, Member States, the European Commission and other stakeholders possible future actions in the Information Management Strategy Action list for the period after 30 June 2016.

Furthermore, the Presidency wishes to undertake a more detailed discussion on the operational benefits of Prüm and bottlenecks in view of the implementation and use of the instrument.

Without prejudice to the prerogatives of other Council working parties or committees, initiatives being discussed or concluded in other Council working parties or committees will – where appropriate – be presented to DAPIX by the Presidency.

5. Discussion

The Presidency aim to identify which additional steps would be required to further enhance efficiency of DAPIX in view of current challenges and invites delegations to discuss the following questions:

- (1) Bearing in mind current actions and described initiatives of the Presidency and the trio-Presidency, which additional steps would enhance a coherent European approach on law enforcement information exchange?*
- (2) Which steps would be required to ensure a correct cross-sectorial application of the European approach on law enforcement information exchange, including possible steps in the activities of DAPIX?*
- (3) Would DAPIX need to be more informed on evolving practices such as public private partnerships on information gathering and technological and scientific developments influencing law enforcement information exchange – e.g. current technical possibilities on pseudonymisation and anonymisation, big data?*

- (4) *Should DAPIX play an active role in the discussion at European level if it comes up to determine the effect of an initiative on applying the generic approach on law enforcement information exchange, establish consequences on implementation of the initiative and develop solutions on work processes and systems both at European and national level?*
- (5) *Would it be helpful if DAPIX in conjunction with other relevant fora such as COSI, the SIS/SIRENE Working Party, SIS/VIS Committee, eu-LISA or Europol undertakes a discussion on the implementation of*
- a) the EU Data Protection package; and/or*
 - b) the systematic use and checks of information systems at the EU external borders; and/or*
 - c) information exchange among Member States under the PNR Directive; and/or*
 - d) an integrated data management concept and accompanying IT solutions.*
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