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OUTCOME OF PROCEEDINGS

From: General Secretariat of the Council
On: 3 July 2019
To: Working Party on Information Exchange and Data Protection (DAPIX)
Subject: Summary of discussions

1. Adoption of the agenda

The agenda was adopted as set out in CM 3247/19.

2. Information from the Presidency

The Aviation Working Party discussed on 4 July 2019 the working paper on standards and principles of the collection, use, processing and protection of PNR data, to be presented by Finland on behalf of the EU and its Member States and other Member States of the European Civil Aviation Conference (ECAC) (10759/19) at the 40th Assembly of the International Civil Aviation Conference (ICAO) (Montréal, 24 September - 4 October 2019).

3. Passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime

3.1 Monitoring the implementation of Directive (EU) 2016/681

Delegations took note of information from the IWG PNR chair (FR) about the 9th Informal Working Group meeting in The Hague (18-19 June 2019 (10459/19)). The chair highlighted the results achieved and outlined further work to be done. The BE delegation promised to present at a forthcoming DAPIX meeting the outcome of internal discussions on potentially re-structuring IWG working methods so as to formalise results where appropriate and to strengthen the link with the Council.

The Commission outlined the agenda of the 4th meeting on the application of the PNR Directive (The Hague, 20 June 2019). The Directive is meanwhile transposed into national legislation by 26 Member States. The Commission informed furthermore to prepare the initialing of the EU Canada PNR Agreement and the joint evaluation of the PNR Agreements with both Australia and the US, and assured the meeting of its support for the 40th ICAO Assembly.

The 10th IWG PNR and the 5th application meeting will be organised back-to-back in The Hague at Europol HQ on 3-5 September 2019.

3.2 Extending the scope of PNR to other transportation modes than air traffic

The Presidency presented its discussion paper (10597/19) on extending the use of PNR data for law enforcement purposes to maritime traffic and high speed trains. The Presidency initiative met with broad support. The benefit of broadening the scope of applicable PNR data allowing for completing a picture on suspicious travel patterns was underlined by the majority of delegations. However, a series of concerns linked to their geographical situation or national legislation, to technical or operational obstacles to collect such data were voiced and delegations asked for more time to thoroughly examine the initiative.

Whether the need for specific EU legislation was acknowledged or not, delegations warned against touching the current EU PNR legislation. They recommended to wait, on the one hand, for the official review of all elements of the EU Directive to be carried out by May 2020 and, on the other hand, for the outcome of the pending court case against national and EU PNR legislation in DE.

The Commission explained that the EU PNR Directive is limited to air traffic, indeed, but does not prevent Member States from taking further reaching measures based on national legislation. The Commission took note of Member States' positions and suggested that broadening the scope of the PNR Directive could be assessed in the framework of the forthcoming official review.

In order to continue the discussion, the Presidency invited delegations to submit their comments by 1 August 2019 to eu.lawenforcement@intermin.fi.

4. Automation of information exchange in a strategic context

Delegations welcomed the Presidency discussion paper (10581/19) which resumed the results achieved under the previous RO Presidency. They agreed on commonly defining the terminology to be applied in future discussions on automation and supported, in particular, the focus on the end-user perspective in this regard. Several delegations welcomed the reference to the EPRIS-ADEP project in the context of extending the Prüm data set and repeated their positions expressed in the Commission workshop (see below pt. 6) as to facial recognition and firearms/ballistics. Delegations asked for further exploring the issue of additional EU support when developing IT tools or of centralising several smaller information exchange tools and databases.

The Commission referred to upcoming discussions within the Council on the future of internal security and considered the current DAPIX discussions as the ideal opportunity to define police officers' needs.

The Presidency took note of the interventions and concluded that although the implementation of the interoperability package and the discussion on amending the Prüm system were not concluded, next steps should be anticipated in theory so as to enable a proactive approach and an effective input into discussions on the future of EU internal security. Delegations were invited to submit further comments by 1 August 2019 to eu.lawenforcement@intermin.fi.

5. 'Prüm Decisions'

5.1 Implementation - state of play (5322/3/19 REV 3)

The meeting took note of the updated overview and was invited to check regularly the information on the state of play in order to inform the General Secretariat of the Council about possible changes.

CY informed about work on sorting out technical problems on their reply side.

The Prüm Agreements between the EU and Switzerland and Liechtenstein respectively have been signed on 27 June 2019. On 1 July 2019, the European Parliament has formally been asked to give its consent on the Agreement as soon as possible.

5.2 Organisation of evaluation visits (5764/3/19 REV 3)

Evaluation visits were scheduled for September regarding DNA for IT, and FP for IT and UK.

5.3 *Italy*

Declaration in accordance with Decision 2008/615/JHA, Art. 2(3)

The submission of 9722/19 was postponed to the forthcoming meeting.

5.4 *United Kingdom / Fingerprints*

Delegations took note of both the reply to the questionnaire on data protection with particular regard to exchange of FP data (10647/19), and of the reply to the FP questionnaire (10649/19). On the question, to what extent reciprocity of FP data exchange between UK and the Member States would be ensured, the UK explained that, in accordance with national legislation, search from abroad would be limited to FP profiles of convicted persons.

5.5 DNA and Missing Persons

The BE delegation presented the national legislation and the cross-border opportunities of DNA data exchange regarding missing persons. Delegations were invited to reply by 1 August 2019 to the set of questions in 10582/19.

6. **Future of Prüm**

6.1 Feasibility Study on improving information exchange under the 'Prüm Decisions'

The Commission summarised the outcome of proceedings of the 2nd workshop (Brussels, 25 June 2019) within the feasibility study. National expert discussions in the workshop focussed on suggestions regarding a revamped IT architecture, on a harmonised follow-up process and the integration of new data categories. The Commission informed delegations that the study contract had been extended to end of November 2019.

6.2 Next Generation Prüm (Prüm.ng)

Delegations were briefed about latest results and ongoing discussions in the focus groups on DNA, FP, VRD facial recognition (FR), and other forms of police cooperation (PC). Several final reports were expected to be ready for discussion at the incoming DAPIX meeting in September.

As to the controversial issue of introducing a central component into the Prüm IT architecture, which might deserve to be explored in more detail, one delegation tentatively suggested to establish a focus group on the IT architecture.

7. Information Management Strategy (IMS)

The IT delegation presented the revised draft Council Conclusions on the establishment of a Heads of SPOC - network (9048/1/19 REV 1) and took note of delegations' comments on the changes. Delegations were asked to submit further comments by 1 August 2019 to finalise the draft before the incoming DAPIX meeting.

8. Manual on Law Enforcement Information Exchange / update 2019

Delegations were invited to take note of the national contact details set out in 9364/19 ADD 1.

9. AOB

The DK delegate promoted the 3rd EDEN (Europol's Data Protection Experts Network) conference in Copenhagen, 19-20 September 2019. The '*Paradise lost? Policing in the Age of Data protection*' - conference aims at exploring the practical challenges of EU data protection rules in the field of law enforcement against the background of developments in policing, society as a whole and criminal environment.

The Presidency invited delegations to save the 16 October 2019 for the conference at eu-LISA in Tallinn (EE) on changes in the IT information exchange architecture of the JHA sector.
