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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	9 December 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
Subject:	REGULATORY SCRUTINY BOARD OPINION Proposal for a Regulation of the European Parliament and of the Council on automated data exchange for police cooperation ("Prüm II"), amending Council Decisions 2008/615/JHA and 2008/616/JHA and Regulations (EU) 2018/1726, 2019/817 and 2019/818 of the European Parliament and of the Council

Delegations will find attached document SEC(2021) 421 final.

Encl.: SEC(2021) 421 final

EUROPEAN COMMISSION

19/10/2021

SEC(2021) 421

REGULATORY SCRUTINY BOARD OPINION

Proposal for a Regulation of the European Parliament and of the Council on automated data exchange for police cooperation ("Prüm II"), amending Council Decisions 2008/615/JHA and 2008/616/JHA and Regulations (EU) 2018/1726, 2019/817 and 2019/818 of the European Parliament and of the Council

COM(2021)784

SWD(2021)378

SWD(2021)379

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: Impact assessment / Strengthening the automated data exchange under the Prüm framework

Overall opinion: POSITIVE

(A) Policy context

The Prüm Decisions aim to support and step up cross-border cooperation in police and judicial cooperation in criminal matters. The main instrument is the exchange of information between authorities responsible for the prevention and investigation of criminal offences. The Prüm legal framework defines the conditions and procedures for the mutual on-line access to national databases of DNA profiles, fingerprints and national vehicle registration data. It allows a Member State to check for such data contained in one or several other Member States' national databases. For data protection reasons, the system provides a reply that only confirms a 'hit' or "no hit" without providing the data. After a 'hit', other (non-automatic) procedures and purpose limitations apply to request the corresponding data.

The evaluation of this framework and this impact assessment have been conducted as part of a single process. The evaluation has shown that the framework is still relevant, but that some parts of it are outdated (e.g. data protection rules and technical specifications). There is scope to extend the types of data that are exchanged and to reduce administrative costs. Furthermore, the follow-up action to "hits" under the Prüm framework, which take place under national law, remain slow and the actual exchange of data may take an excessively long time.

(B) Summary of findings

The Board notes the useful additional information provided in advance of the meeting and commitments to make changes to the report.

The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following aspects:

(1) The report does not sufficiently explain the trade-off between security and data protection.

(2) The report does not bring out clearly enough how the success of the revised framework will be monitored and evaluated, and how the necessary data will be

This opinion concerns a draft impact assessment which may differ from the final version.

collected.

(C) What to improve

(1) The report should clarify how the introduction of a central router and the extension to new data categories will lead to a higher intensity of data exchanges. It should explain why the centralised model would be more successful in integrating Member States that did not make any bilateral connections in the current system. It should then explain how data protection standards will limit the impact on data protection and how the more intense data exchanges will be counterbalanced by the benefits for fighting crime.

(2) The report should define the operational (and time bound) objectives that allow measuring the success or failure of the initiative. It should not only plan the monitoring and evaluation of the results of the initiative, but also indicate how to remedy the lack of data at EU and Member State level. This should include data collected at the level of the new central router, and any other new (survey) data collection needed to evaluate the effectiveness and usefulness of the framework for the fight against crime in the future.

(3) The report could better demonstrate the need for rapid data exchanges, of both the current and the new data categories, between police services to fight crime. It should present the (systematic or anecdotal) evidence that shows that the automated exchange of data via Prum provides police forces with means that are more effective and efficient than other ways of acquiring and exchanging information.

(4) The report should clarify the content of some policy options. It should explain where the central router will be situated and managed and what national law will govern the router and the data requests following a 'hit'. It should also point out practical issues, such as how the exchange of facial images will take place. It should explain why the options foresee that police records would be exchanged solely on a voluntary basis and why for driving licences there is only a 'hit/no-hit' option.

(5) A dedicated section should present the discarded policy options and the annexes could further explain them in detail. The impact analysis should focus on the retained policy options.

(6) The views of the various stakeholder groups should be reflected throughout the report.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG may proceed with the initiative.

The DG must take these recommendations into account before launching the interservice consultation.

Full title	Impact assessment on a proposal to strengthen the automated data exchange under the Prüm framework (revision of Council Decisions 2008/615/JHA and 2008/616/JHA).

Reference number	PLAN/2020/6629
Submitted to RSB on	21 June 2021
Date of RSB meeting	14 July 2021

ANNEX – Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

I. Overview of costs – Preferred option						
	Citizens/Consumers		Member State Administrations		Union Agencies	
	One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Direct costs						
Facial images	0	0	€2.27m	€0.45m	0	0
Police records	0	0	€1.52m	€0.3m p.a.	€1.66m	€0.33m p.a
Prüm router	0	0	€0.61m	€0.12m p.a.	€9m	€1.1m p.a.
Europol (including both policy options 3.1 and 3.2)	0	0	0	0	€2.04m	€1.77m p.a.
Semi-automated exchange of additional actual data	0	0	0	0	0	0
Total	***0***	***0***	***€4.4m***	***€0.87m p.a.***	***€12.7m***	***€3.2m p.a.***
Indirect costs						
None						

II. Overview of Benefits– Preferred Option		
Description	***Amount***	***Comments***
Direct benefits		
Reduced costs of connecting each Member State's national database with each other due to the	€32.9m as one-off	Member States' IT departments and law enforcement authorities

router[1] One-off costs		
Reduced costs of connecting each Member State national database with each other due to the router[2] Recurrent costs	€12.96m recurrent	Member States' IT departments and law enforcement authorities
Indirect benefits		
None identified		

[1] Only considering new connections. There would be additional added value for current connections which were not made at the time of the start of operations of the Prüm router.

[2] Considering both the new connections (facial images and police records) and the existing bilateral connections (fingerprints and DNA).