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NOTE

from:	The Presidency
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Subject:	Draft discussion paper on the state of play on the implementation of Council Decisions 2008/615/JHA and 2008/616/JHA ("Prüm Decisions")

Council Decisions 2008/615/JHA and 2008/616/JHA ("Prüm Decisions") aim to provide Member States' law enforcement agencies with additional tools for fighting serious crime and terrorism, in particular by enhancing automated data exchange regarding DNA, fingerprints and Vehicle Registration Data (VRD).

The deadline for compliance with the provisions on automated data exchange is 26 August 2011, while the deadline for compliance with the Prüm provisions relating to major events, terrorism and data protection was in August 2009. The state of play is registered by the Council Secretariat (see latest update of document 5904/6/10 REV 6).

According to this document, several Member States have not yet complied in full with the provisions on automated data searching, on the one hand, and, on the other hand, the supply of information relating to major events and the prevention of terrorist offences.

The current state of implementation for automated searching of DNA, dactyloscopic data and VRD can be summarized as follows:

- Ten Member States are operational for DNA: Bulgaria, Germany, Spain, France, Luxembourg, Netherlands, Austria, Romania, Slovenia, Finland. The Council Decision regarding Slovakia is an A-item on the agenda of this JHA Council.
- Five Member States are operational for fingerprints: Germany, Spain, Austria, Luxembourg, Slovenia. The Council Decision regarding Slovakia is an A-item on the agenda of this JHA Council.
- Seven Member States are operational for VRD: Belgium, Germany, Spain, France, Luxembourg, Netherlands, Austria.

With the August 2011 deadline in mind, the Presidency launched a questionnaire (see doc. 14918/10 JAI 843 DAPIX 35 CRIMORG 177 ENFOPOL 284) on the state of play of the implementation of the "Prüm Decisions". According to the results, most countries are convinced that they will make the deadline for all three data categories. On the other hand, five countries for VRD and six countries for DNA and fingerprints respectively will not make the deadline or do not know whether they will. The problems identified for each of the data types by means of the questionnaire are diverse:

- For DNA, the problems mentioned the most were IT and financial problems. But logistic, legal and political (decision making) problems as well as shortage in personnel were also very common.
- Regarding fingerprints, the Member States most frequently mentioned lack of personnel, logistic and network problems, financial constraints and legal or political problems.
- With regard to exchange of vehicle registration data, member states stated that the most common problems are lack of personnel, IT problems and problems regarding legal aspects or political decision making aspects.

As a follow up to the questionnaire, the Presidency and the Commission organized a seminar on cross-border information exchange on 14 October. At this seminar, possible solutions to the identified problems were discussed. The conclusions of the seminar were then presented to the DAPIX Working Party and CATS¹.

Following the outcome of the aforementioned activities, the Presidency is of the opinion that four key issues regarding implementation problems and possible solutions should be discussed at political level:

1. One of the important problems identified were legal aspects and governmental decision making processes at national level. The Presidency is of the opinion that a strong political response is appropriate when it comes to resolving these issues.

In order to solve this problem, the monitoring at political level as well as the supply of information by the Member States should be reinforced. The following measures could be envisaged:

- Member States improve the supply of information about the state of play to the DAPIX Working Party.
- Member States take stock of their problems and time schedule regarding implementation and refer problems and questions to the DAPIX Working Party when appropriate
- Member States anticipate obstacles for implementation and take appropriate measures at national level when needed
- the DAPIX Working Party continues to place the state of play as a permanent item on its agenda
- DAPIX's expert groups hold regular meetings in order to provide sufficient opportunities to discuss implementation problems and to exchange best practices
- the DAPIX Working Party and CATS present a progress report on implementation to the JHA Council

¹ DOC 15003/1/10 REV 1

- the Commission considers potential problems concerning the implementation of the "Prüm Decisions" in its upcoming Communication on the European Information Exchange Model.
 - Member States consider the lessons learned from the "Prüm Decisions" and their implementation when implementing the EU Information Management Strategy for internal security (IMS).
- **What is the Member States' assessment of their respective national implementation? Which obstacles may hinder timely implementation?**
 - **Which measures should be taken in order to reinforce monitoring at the political level and in order to improve the supply of information by Member States?**

2. Member States have already proposed initiatives for assisting other Member States with technical implementation. For example, the German initiative to set up a Mobile Competence Team (MCT) and the Austrian initiative to set up a Prüm helpdesk at Europol. Both initiatives could provide assistance in the mid- or long term. Meanwhile, the Presidency has increased the frequency of the expert groups in order to provide Member States with sufficient opportunities for discussing technical problems.

The application for ISEC funding for the Mobile Competence Team initiative is currently under consideration. The initiative would comprise a team of technical experts which would travel to Member States to help solve technical problems with implementation. If funding is granted, the MCT could be up and running in 2011.

The Prüm helpdesk at Europol is an Austrian initiative aimed at setting up a helpdesk where Member States can get assistance for technical problems. If the helpdesk would be set up, it would not be operational before 2012. This means that the helpdesk will not assist Member States with meeting the deadline. However, the helpdesk would assist Member States with Prüm implementation after the deadline and the helpdesk would also provide assistance to operational Member States.

- **Which measures should be taken to provide adequate technical support for Member States?**

3. Funding was identified as a major implementation obstacle as well. The Commission has already subsidized Prüm implementation projects in several Member States. However, Member States reporting financial strains do not always apply for EU grants. Possible solutions to this problem include:

- Member States apply for ISEC funding when appropriate
- Member States increase awareness within their law enforcement organizations on the possibilities of ISEC funding
- The Commission further assists Member States with their applications for ISEC funding
- The Commission further provides Member States with information about upcoming calls
- The Commission should examine possibilities for simplification of the ISEC application procedure

➤ **Which measures should be taken to ensure adequate funding for Prüm implementation?**

4. Member States were also asked when they expected to be operational. Many Member States indicated that they expect to finish implementation in the last months before the August 2011 deadline. The last step of this process is the evaluation. As it stands now, the evaluation procedure is costly and time-consuming and there are only a limited number of experts available to partake in the evaluations. It is to be expected that if nothing is done, the evaluations will become a bottleneck for timely implementation.

Possible solutions to this problem include:

- The Member States provide experts for the evaluation visits when appropriate
- The DAPIX Working Party and CATS elaborate proposals on how to make the evaluation process as cost- and time effective as possible whilst still ensuring full compliance with the "Prüm Decisions". Possible solutions to be examined should include:

- Possibilities for the adequate repartition of evaluation costs, including the possibility of combining visits in order to be able to apply for ISEC funding
 - Possibilities to further reduce the administrative burden of the procedure
 - Limitation of the number of experts participating in the visits
 - Shorter visits
 - More efficient planning of visits, for example by planning visits so that the outcome can be discussed quickly at DAPIX, or by considering combining visits in neighbouring countries.
- **What measures should be taken in order to avoid that the evaluations become a bottleneck for timely implementation?**
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