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**NOTE**

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From: Presidency  
To: Delegations

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Subject: 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

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Delegations will find in annex the Presidency's compromise proposals on blocks 1 and 2 of the abovementioned proposal for a Regulation.

All changes proposed by the Presidency, as compared to the Commission's proposal, appear as ~~strikethrough~~ and **bold underlined**.

CHAPTER 1

**GENERAL PROVISIONS**

*Article 1*

**Subject matter**

This Regulation establishes a framework for the exchange of information between authorities responsible for the prevention, detection and investigation of criminal offences (Prüm II).

This Regulation lays down the conditions and procedures for the automated searching of DNA profiles, dactyloscopic data, facial images, police records and certain vehicle registration data and the rules regarding the exchange of core data following a **confirmed** match.

*Article 2*

**Purpose**

The purpose of Prüm II shall be to step up cross-border cooperation in matters covered by Part III, Title V, Chapter 5 of the Treaty on the Functioning of the European Union, **facilitating** particularly the exchange of information between authorities responsible for the prevention, detection and investigation of criminal offences.

The purpose of Prüm II shall also be to allow for the search ~~for~~ **of** missing persons and **to facilitate the identification of** unidentified human remains by authorities responsible for the prevention, detection and investigation of criminal offences.

*Article 3*

**Scope**

This Regulation applies to the ~~national~~ databases, **established in accordance with national law,** **and** used for the automated transfer of **data of** the categories of DNA profiles, dactyloscopic data, facial images, police records and certain vehicle registration data.

## Article 4

### Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘loci’ means the particular molecular structure at the various DNA locations;
- (2) ‘DNA profile’ means a letter or number code which represents a set of identification characteristics of the non-coding part of an analysed human DNA sample, the particular molecular structure at the various DNA locations;
- (3) ‘non-coding part of DNA’ means chromosome regions not genetically expressed, i.e. not known to provide for any functional properties of an organism;
- (4) ‘DNA reference data’ means DNA profile and the reference number referred to in Article 9;
- (5) ‘reference DNA profile’ means the DNA profile of an identified person;
- (6) ‘unidentified DNA profile’ means the DNA profile obtained from traces collected during the investigation of criminal offences and belonging to a person not yet identified;
- (7) ‘dactyloscopic data’ means fingerprint images, images of fingerprint latents, palm prints, palm print latents and templates of such images (coded minutiae), when they are stored and dealt with in an automated database;
- (8) ‘dactyloscopic reference data’ means dactyloscopic data and the reference number referred to in Article 14;
- (9) ‘individual case’ means a single investigation file;
- (10) ‘facial image’ means digital images of the face;
- (11) ‘biometric data’ means DNA profiles, dactyloscopic data or facial images;
- (12) ‘match’ means the existence of a correspondence as a result of an automated comparison between personal data recorded ~~or being recorded~~ in an information system or database;
- (13) ‘candidate’ means data with which a match occurred;
- (14) ‘requesting Member State’ means the Member State which is conducting a search through Prüm II;
- (15) ‘requested Member State’ means the Member State in which databases the search is conducted through Prüm II by the requesting Member State;

(...)

- (17) ‘pseudonymisation’ means the processing of personal data in such a manner that the personal data can no longer be attributed to a specific data subject without the use of additional information, provided that such additional information is kept separately and is subject to technical and organisational measures to ensure that the personal data are not attributed to an identified or identifiable natural person;
- (18) ‘Europol data’ means any **operational** personal data processed by Europol in accordance with Regulation (EU) 2016/794;
- (19) ‘supervisory authority’ means an independent public authority established by a Member State pursuant to Article 41 of Directive (EU) 2016/680 of the European Parliament and of the Council<sup>1</sup>;
- (20) ‘SIENA’ means the secure information exchange network application, managed **and developed** by Europol, ~~aimed at facilitating the exchange of information between Member States and Europol;~~
- (21) ‘significant incident’ means any incident unless it has a limited impact and is likely to be already well understood in terms of method or technology;
- (22) ‘significant cyber threat’ means a cyber threat with the intention, opportunity and capability to cause a significant incident;
- (23) ‘significant vulnerability’ means a vulnerability that will likely lead to a significant incident if it is exploited;
- (24) ‘incident’ means an incident within the meaning of Article 4(5) of Directive (EU) .../... of the European Parliament and of the Council<sup>2</sup> [*proposal NIS 2*].

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<sup>1</sup> Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

<sup>2</sup> Directive (EU) .../... of the European Parliament and of the Council... (OJ..).

CHAPTER 2  
EXCHANGE OF DATA

SECTION 1  
DNA profiles

*Article 5*

**Establishment of national DNA ~~analysis files~~ databases**

1. **For the prevention, detection and investigation of criminal offences and for the search of missing persons and to facilitate the identification of unidentified human remains, Member States shall open and keep national DNA ~~analysis files~~ databases and ensure the availability of DNA reference data from their national DNA databases ~~analysis files for the investigation of criminal offences.~~**

Processing of **DNA reference** data ~~kept in those files~~, under this Regulation, shall be carried out in accordance with this Regulation, in compliance with the national law of the Member States applicable to the processing of those data.

~~2. Member States shall ensure the availability of DNA reference data from their national DNA analysis files as referred to in paragraph 1.~~

**2.** DNA reference data shall not contain any **additional** data from which an individual can be directly identified.

**3.** DNA reference data which is not attributed to any individual (unidentified DNA profiles) shall be recognisable as such.

*Article 6*

**Automated searching of DNA profiles**

1. Member States shall allow national contact points referred to in Article 29 and Europol access to the DNA reference data in their DNA **databases** ~~analysis files~~, to conduct automated searches by comparing DNA profiles for the **prevention, detection and** investigation of criminal offences, **and for the search of missing persons and the identification of unidentified human remains.**

Searches may be conducted only in individual cases and in compliance with the national law of the requesting Member State.

2. Should an automated search show that a supplied DNA profile matches DNA profiles entered in the requested Member State's searched file, the national contact point of the requesting Member State shall receive in an automated way the DNA reference data with which a match has been found.

If there is no match, the requesting Member State shall be notified about it in an automated manner.

3. The national contact point of the requesting Member State shall confirm a match of DNA profiles data with DNA reference data held by the requested Member State following the automated supply of the DNA reference data required for confirming a match.

#### *Article 7*

##### **Automated comparison of unidentified DNA profiles**

1. Member States may, via their national contact points, compare ~~the DNA profiles of their unidentified DNA profiles~~ with all DNA profiles from other national DNA **databases analysis files** for **the prevention, detection and** investigation of criminal offences, **and for the search of missing persons and to facilitate the identification of unidentified human remains**. Profiles shall be supplied and compared in an automated manner.

2. Should a requested Member State, as a result of the comparison referred to in paragraph 1, find that any DNA profiles supplied match any of those in its DNA **databases analysis files**, it shall, without delay, supply the national contact point of the requesting Member State with the DNA reference data with which a match has been found.

3. The confirmation of a match of DNA profiles with DNA reference data held by the requested Member State shall be carried out by the national contact point of the requesting Member State following the automated supply of the DNA reference data required for confirming a match.

#### *Article 8*

##### **Reporting about DNA analysis files**

Each Member State shall inform, **in accordance with Article 73, other Member States**, the Commission and eu-LISA of the **content of** national DNA **databases analysis files**, to which Articles 5 to 7 apply, **and the conditions for automated searches**, ~~in accordance with Article 73.~~

#### *Article 9*

##### **Reference numbers for DNA profiles**

The reference numbers for DNA profiles shall be the combination of the following:

- (a) a reference number allowing Member States, in case of a match, to retrieve further data and other information in their databases referred to in Article 5 in order to supply it to one, several or all of the other Member States in accordance with Articles 47 and 48, **or to Europol in accordance with Article 50(6)**;

**(a bis) a reference number allowing Europol, in case of a match, to retrieve further data and other information referred to in Article 49(1) in order to supply it to one, several or all of the other Member States in accordance with Articles 49(2);**

- (b) a code to indicate the Member State which holds the DNA profile;
- (c) a code to indicate the type of DNA profile (reference DNA profiles or unidentified DNA profiles).

#### *Article 10*

### **Principles of DNA reference data exchange**

1. Appropriate measures shall be taken to ensure confidentiality and integrity for DNA reference data being sent to other Member States, including their encryption.
2. Member States shall take the necessary measures to guarantee the integrity of the DNA profiles made available or sent for comparison to the other Member States and to ensure that those measures comply with the relevant **European or** international standards for DNA data exchange.
3. The Commission shall adopt implementing acts to specify the relevant **European or** international standards that ~~are to~~ **shall** be used by Member States for DNA reference data exchange. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 76(2).

#### *Article 11*

### **Rules for requests and answers regarding DNA profiles**

1. A request for an automated search or comparison shall include only the following information:
  - (a) the code of the requesting Member State;
  - (b) the date, time and indication number of the request;
  - (c) DNA profiles and their reference numbers referred to in Article 9;
  - (d) the types of DNA profiles transmitted (unidentified DNA profiles or reference DNA profiles).
2. The answer to the request referred to in paragraph 1 shall contain only the following information:
  - (a) an indication as to whether there were one or more matches or no matches ;
  - (b) the date, time and indication number of the request;
  - (c) the date, time and indication number of the answer;
  - (d) the codes of the requesting and requested Member States;

- (e) the reference numbers of the DNA profiles from the requesting and requested Member States;
- (f) the type of DNA profiles transmitted (unidentified DNA profiles or reference DNA profiles);
- (g) the matching DNA profiles.

3. Automated notification of a match shall only be provided if the automated search or comparison has resulted in a match of a minimum number of loci. The Commission shall adopt implementing acts to specify this minimum number of loci, in accordance with the procedure referred to in Article 76(2).

4. Where a search or comparison with unidentified DNA profiles results in a match, each requested Member State with matching data may insert a marking, **including the reference number from the DNA profile of the requesting Member State**, in its national database indicating that there has been a match for that DNA profile following another Member State's search or comparison.

5. Member States shall ensure that requests are consistent with **notifications** ~~declarations~~ sent pursuant to Article 8. Those **notifications** ~~declarations~~ shall be reproduced in the practical handbook referred to in Article 78.

## SECTION 2

### Dactyloscopic data

#### *Article 12*

### Dactyloscopic reference data

1. Member States shall ensure the availability of dactyloscopic reference data from ~~the file for the national automated fingerprint identification systems~~ **databases** established for the prevention, detection and investigation of criminal offences.
2. Dactyloscopic reference data shall not contain any **additional** data from which an individual can be directly identified.
3. Dactyloscopic reference data which is not attributed to any individual (unidentified dactyloscopic data) shall be recognisable as such.

### Article 13

#### Automated searching of dactyloscopic data

1. For the prevention, detection and investigation of criminal offences, Member States shall allow national contact points of other Member States and Europol access to the dactyloscopic reference data in the automated fingerprint identification systems which they have established for that purpose, to conduct automated searches by comparing dactyloscopic reference data.

Searches may be conducted only in individual cases and in compliance with the national law of the requesting Member State.

2. The national contact point of the requesting Member State shall confirm a match of dactyloscopic data with dactyloscopic reference data held by the requested Member State following the automated supply of the dactyloscopic reference data required for confirming a match.

### Article 14

#### Reference numbers for dactyloscopic data

The reference numbers for dactyloscopic data shall be the combination of the following:

- (a) a reference number allowing Member States, in the case of a match, to retrieve further data and other information in their databases referred to in Article 12 in order to supply it to one, several or all of the other Member States in accordance with Articles 47 and 48, **or to Europol in accordance with Article 50(6)**;
- (a bis) a reference number allowing Europol, in case of a match, to retrieve further data and other information referred to in Article 49(1) in order to supply it to one, several or all of the other Member States in accordance with Articles 49(2)**;
- (b) a code to indicate the Member State which holds the dactyloscopic data.

### Article 15

#### Principles for the exchange of dactyloscopic data

1. The digitalisation of dactyloscopic data and their transmission to the other Member States shall be carried out in accordance with **European or international standards** ~~a uniform data format~~. The Commission shall adopt implementing acts to specify ~~the uniform data format~~ **the relevant existing European or international standards for dactyloscopic data exchange that shall be used by Member States. Those implementing acts shall be adopted** in accordance with the procedure referred to in Article 76(2).

2. Each Member State shall ensure that the dactyloscopic data it transmits are of sufficient quality for a comparison by the automated fingerprint identification systems.

3. Member States shall take appropriate measures to ensure the confidentiality and integrity of dactyloscopic data being sent to other Member States, including their encryption.

~~4. The Commission shall adopt implementing acts to specify the relevant existing standards for dactyloscopic data exchange that are to be used by Member States. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 76(2).~~

#### *Article 16*

##### **Search capacities for dactyloscopic data**

1. Each Member State shall ensure that its search requests do not exceed the search capacities specified by the requested Member State **to ensure national system readiness and avoid overloading of national systems.**

Member States shall inform **other Member States,** the Commission and eu-LISA ~~in accordance with Article 79(8) and (10)~~ about their maximum search capacities per day for dactyloscopic data of identified persons and for dactyloscopic data of persons not yet identified. **Those search capacities can be changed by Member States at any time including in case of urgency.**

2. The Commission shall adopt implementing acts to specify the maximum numbers of candidates accepted for comparison per transmission **as well as the distribution of unused search capacities between Member States** in accordance with the procedure referred to in Article 76(2).

#### *Article 16a*

##### **Reporting about dactyloscopic databases**

**Each Member State shall inform, in accordance with Article 73, other Member States, the Commission and eu-LISA of the content of national dactyloscopic databases, to which Articles 12 and 13 apply, and the conditions for automated searches.**

#### *Article 17*

##### **Rules for requests and answers regarding dactyloscopic data**

1. A request for an automated search shall include only the following information:

- (a) the code of the requesting Member State;
- (b) the date, time and indication number of the request;
- (c) the dactyloscopic data and their reference numbers referred to in Article 14.

2. The answer to the request referred to in paragraph 1 shall contain only the following information:

- (a) an indication as to whether there were one or more matches or no matches;
- (b) the date, time and indication number of the request;

- (c) the date, time and indication number of the answer;
- (d) the codes of the requesting and requested Member States;
- (e) the reference numbers of the dactyloscopic data from the requesting and requested Member States;
- (f) the matching dactyloscopic data.

### SECTION 3

#### **Vehicle registration data**

##### *Article 18*

#### **Automated searching of vehicle registration data**

1. For the prevention, detection and investigation of criminal offences, Member States shall allow national contact points of other Member States and Europol access to the following national vehicle registration data, to conduct automated searches in individual cases:

- (a) data relating to owners, **holders** or operators;
- (b) data relating to vehicles.

2. Searches may be conducted only with a full chassis number or a full registration number.

3. Searches may be conducted only in compliance with the national law of the requesting Member State.

##### *Article 19*

#### **Principles of automated searching of vehicle registration data**

1. For automated searching of vehicle registration data Member States shall use the European Vehicle and Driving Licence Information System (Eucaris).

2. The information exchanged via Eucaris shall be transmitted in encrypted form.

3. The Commission shall adopt implementing acts to specify the data elements of the vehicle registration data to be exchanged. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 76(2).

## Article 20

### Keeping of logs

1. Each Member State shall keep logs of queries that the staff of its authorities duly authorised to exchange vehicle registration data make as well as logs of queries requested by other Member States. Europol shall keep logs of queries that its duly authorised staff make.

Each Member State and Europol shall keep logs of all data processing operations concerning vehicle registration data. Those logs shall include the following:

- (a) the Member State or Union agency launching the request for a query;
- (b) the date and time of the request;
- (c) the date and time of the answer;
- (d) the national databases to which a request for a query was sent;
- (e) the national databases that provided a positive answer.

2. The logs referred to in paragraph 1 may be used only for the collection of statistics and data protection monitoring, including checking the admissibility of a query and the lawfulness of data processing, and for ensuring data security and integrity.

Those logs shall be protected by appropriate measures against unauthorised access and erased **two** ~~one~~ years after their creation. If, however, they are required for monitoring procedures that have already begun, they shall be erased once the monitoring procedures no longer require the logs.

3. For the purposes of data protection monitoring, including checking the admissibility of a query and the lawfulness of data processing, the data controllers shall have access to the logs for self-monitoring as referred to in Article 56.

(...)

## SECTION 6

### Common provisions

## Article 29

### National contact points

Each Member State shall designate a **one or more** national contact points.

The national contact points shall be responsible for supplying the data referred to in Articles 6, 7, 13, 18, 22 and 26.

*Article 30*

**Implementing measures**

The Commission shall adopt implementing acts to specify the technical arrangements for the procedures set out in Articles 6, 7, 13, 18, 22 and 26. Those implementing acts shall be adopted in accordance with the procedure referred to in Article 76(2).

*Article 31*

**Technical specifications**

Member States and Europol shall observe common technical specifications in connection with all requests and answers related to searches and comparisons of DNA profiles, dactyloscopic data, vehicle registration data, facial images and police records. The Commission shall adopt implementing acts to specify these technical specifications in accordance with the procedure referred to in Article 76(2).

*Article 32*

**Availability of automated data exchange at national level**

1. Member States shall take all necessary measures to ensure that automated searching or comparison of DNA profiles, dactyloscopic data, vehicle registration data, facial images and police records is possible 24 hours a day and seven days a week.
2. National contact points shall immediately inform each other, the Commission, Europol and eu-LISA of ~~any the technical fault causing~~ unavailability of the automated data exchange.

National contact points shall agree on temporary alternative information exchange arrangements in accordance with the applicable Union law and national legislation.

3. National contact points shall re-establish the automated data exchange without delay.

*Article 33*

**Justification for the processing of data**

1. Each Member State shall keep a justification of the queries that its competent authorities make.

Europol shall keep a justification of the queries it makes.

2. The justification referred to in paragraph 1 shall include:

- (a) the purpose of the query, including a reference to the specific case or investigation;
- (b) an indication on whether the query concerns a suspect or a perpetrator of a criminal offence;

(c) an indication on whether the query aims to identify an unknown person or obtain more data on a known person.

3. The justifications referred to in paragraph 2 **shall be traceable to the logs stored in accordance with articles 20, 40 and 45, and** shall only be used for data protection monitoring, including checking the admissibility of a query and the lawfulness of data processing, and for ensuring data security and integrity.

Those justifications shall be protected by appropriate measures against unauthorised access and erased ~~two~~ **one** years after their creation. If, however, they are required for monitoring procedures that have already begun, they shall be erased once the monitoring procedures no longer require the justification.

4. For the purposes of data protection monitoring, including checking the admissibility of a query and the lawfulness of data processing, the data controllers shall have access to those justifications for self-monitoring as referred to in Article 56.

#### *Article 34*

#### **Use of the universal message format**

1. The universal message format (UMF) standard **as referred to in Article 38 of Regulation (EU) 2019/817 and in Article 38 of Regulation (EU) 2019/818** shall be used in the development of the router referred to in Article 35 and EPRIS.

2. Any automated exchange of data in accordance with this Regulation shall use the UMF standard.

(...)

### CHAPTER 8

#### **AMENDMENTS TO OTHER EXISTING INSTRUMENTS**

#### *Article 67*

#### **Amendments to Decisions 2008/615/JHA and 2008/616/JHA**

1. In Decision 2008/615/JHA, Articles **1(a)**, 2 to 6 and Sections 2 and 3 of Chapter 2 are replaced with regard to the Member States bound by this Regulation from the date of application of the provisions of this Regulation related to the router as set out in Article 74**(1)**.

Therefore, Articles **1(a)**, 2 to 6 and Sections 2 and 3 of Chapter 2 of Decision 2008/615/JHA are deleted from the date of application of the provisions of this Regulation related to the router as set out in Article 74**(1)**.

2. In Decision 2008/616/JHA, Chapters 2 to 5 and Articles 18, 20 and 21 are replaced with regard to the Member States bound by this Regulation from the date of application of the provisions of this Regulation related to the router as set out in Article 74.

Therefore, Chapters 2 to 5 and Articles 18, 20 and 21 of Decision 2008/616/JHA are deleted from the date of application of the provisions of this Regulation related to the router as set out in Article 74.

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