

Prüm Treaty: stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime. Initiative Belgium, Bulgaria, Germany, Spain, France, Luxembourg, the Netherlands, Austria, Slovenia, Slovakia, Italy, Finland, Portugal, Romania and Sweden

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PURPOSE: to combat terrorism and cross-border crimes by facilitating and strengthening cross-border cooperation through the exchange of information between agencies responsible for the prevention and the investigation of criminal offences (integration into the EU legal framework of the parts of the Prüm Treaty relating to police and judicial cooperation in criminal matters (the so-called third pillar), with the exception of the provision relating to cross-border police intervention in the event of imminent danger (Article 48)).

PROPOSED ACT: Initiative of Belgium, Bulgaria, Germany, Spain, France, Luxembourg, the Netherlands, Austria, Slovenia, Slovakia, Italy, Finland, Portugal,

Romania and Sweden for a Council Decision.

BACKGROUND: For effective international cooperation in the field of combating terrorism and cross-border crime, it is of fundamental importance that precise information may be exchanged swiftly and efficiently. The aim is to introduce procedures for promoting fast, efficient and inexpensive means of data exchange. For the joint use of data those procedures should be subject to accountability and incorporate appropriate guarantees as to the accuracy and security of the data during transmission and storage as well as procedures for recording data exchange and restrictions on the use of information exchanged. These requirements are satisfied by the Prüm Treaty of 27 May 2005 between Belgium, Germany, Spain, France, Luxembourg, the Netherlands and Austria on the stepping up of cross-border cooperation, particularly in combating terrorism, cross-border crime and illegal migration. In order that the substantive requirements of the Hague Programme can be fulfilled for all Member States and that its targets in terms of timescale can be achieved, the essential parts of the Prüm Treaty need to be made applicable to all Member States. This Council Decision should therefore be based on the main provisions of the Prüm Treaty.

CONTENT: the aim and content of the document, according to the preamble, clearly states that one of the goals of the European Union is to give citizens a high degree of security in the area of freedom, security and justice by developing common procedures among the Member States in the field of police and judicial cooperation in criminal matters. It points out that precise information for an effective international cooperation needs procedures in the Member States for "promoting fast, efficient and inexpensive means of data exchange.

The preamble goes on to explain the need for a "hit/no hit" system to enable searching Member States to access data from other Member States' national DNA analysis files and automatic dactyloscopic identification systems. Member States are to have access rights to each other's DNA analysis files. All this should be achieved by networking national databases. It is further intended that this should allow close cooperation between police authorities, including joint security operations and cross-border intervention.

The preamble further refers to guaranteeing the right to privacy and the protection of personal data. Since prior checks cannot be carried out in this regard in the case of cross-border on-line access to data bases, post hoc monitoring is to be carried out. A recital makes it clear that it will be for Member States to provide for efficient implementation of all data protection rules contained in this Decision.

To this end, this proposed Decision contains rules in the following areas:

Chapter 2: provisions on the conditions and procedure for the automated transfer of DNA profiles, dactyloscopic data and certain national vehicle registration data. All sections refer to "national contact points" competent for the supply of data and governed by the applicable national law.

Chapter 3: provisions on the conditions for the supply of data in connection with major events with a cross-border dimension. This chapter makes it clear that the supply of non-personal data must be permitted under the supplying of the Member State's national law.

Chapter 4: provisions on the conditions for the supply of information in order to prevent terrorist offences. It states that the supplying Member State imposes the conditions on the use made of the data by the receiving Member State - which will be bound by them - in compliance with national law.

Chapter 5: provisions on the conditions and procedure for stepping up border police cooperation through various measures. This chapter deals with other forms of cooperation, such as joint operations, for which it is necessary to refer to what Member States' law permits and, for the rules of civil liability, to the law of the Member State in whose territory they are operating.

Chapter 6: sets out the general provisions on data protection and makes it plain that each Member State is to guarantee a level of protection "in its national law" at least equal to that resulting from the Council of Europe Convention for the Protection of Individuals.