

Public consultation on strengthening the automated data exchange under the Prüm framework

Fields marked with * are mandatory.

Introduction

Serious and organised crime in Europe knows no borders. Fighting national and cross-border crime requires daily operational cooperation and information exchange between Member States' law enforcement authorities.

At EU level, the so-called Prüm Decisions (Council Decisions 2008/615/JHA and 2008/616/JHA of 23 June 2008) are one of the key instruments for supporting cooperation between law enforcement authorities to fight cross-border crime. Automated exchange of data under the Prüm framework allows national law enforcement authorities responsible for the prevention and investigation of criminal offences to search and compare DNA[1], dactyloscopic[2] and certain vehicle registration data[3]. Member States give each other access to an extraction of their national DNA, dactyloscopic databases established for the purpose of criminal investigations, and to certain data from national vehicle registration databases. In the first step, an inquiring Member State compares its data set against one or several Member States' Prüm databases. In case of a sufficient match between two sets of data, "a hit" is reported back. The query and the reply includes only reference data that does not contain any data from which the data subject can be directly identified (e.g. no name, date of birth, etc). In case of DNA and dactyloscopic data, if a sufficient match between two data sets is confirmed by a forensic expert, a request to receive personal and case related data should be sent to the Member State where the hit occurred. This subsequent exchange of personal data is called step 2 and it takes place under national law. In case of vehicle registration data, the additional data is provided immediately upon "a hit".

Prüm automated exchange of data has allowed to solve many serious crimes in Europe. For example, Prüm framework can be used in a case when comparing a partial fingerprint example (so-called latent print) found on a crime scene against the national criminal fingerprint database brings no results, i.e. the suspect remains unidentified. Checking the same latent fingerprint data also against other Member State's criminal fingerprint databases could show that the same person had been convicted for a criminal offence in another Member State. As a result, after the exchange of additional data between the two Member States, the suspect can be identified and the criminal investigation can lead to the prosecution and conviction of a

c r i m i n a l .

The objective of this consultation is to gather stakeholders' feedback on the Prüm framework for automated data exchange. The consultation looks at the effectiveness, efficiency, relevance, coherence, and European added value of the Prüm framework. It also aims to collect information on the shortcomings of the existing Prüm framework and on the possible ways to address these. [1] 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, i.e. the particular molecular structure at the various DNA locations (loci)

[2] Dactyloscopic data mean 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

[3] Query is launched based on chassis number or licence plate number. Data set returned is described in Chapter 3 of the Annex of Council Decision 2008/616/JHA.

The existing Prüm framework for the automated exchange of DNA, dactyloscopic and vehicle registration data

1. In your view, how relevant is cooperation and the exchange of information between Member States' law enforcement authorities for the prevention and investigation of criminal offences?

- Not at all
- To a small extent
- To some extent
- To a large extent
- Very relevant**
- I do not know

Please explain in more detail.

For safeguarding the internal security of the EU and the safety of its citizens, the Netherlands deems the cooperation and exchange of information between Member States' law enforcement authorities of paramount importance.

2. How relevant it is to be able to search and compare DNA, fingerprint and vehicle registration data (the Prüm framework) in other Member States'

databases for the prevention and investigation of criminal and terrorist offences?

| | Not at all | To a small extent | To some extent | To a large extent | Very relevant | I do not know |
|---------------------------|------------|-------------------|----------------|-------------------|---------------|---------------|
| DNA | | | | | X | |
| Dactyloscopic data | | | | | X | |
| Vehicle registration data | | | | | X | |

Please explain in more detail.

The Prüm framework is a very useful tool to exchange vital information on DNA, fingerprints and vehicle registration data for the prevention and investigation of criminal and terrorist offences.

The direct access to vehicle registration data for law enforcement on the street has contributed to policing in the areas of prevention, emergency assistance and criminal investigations. Before the Prüm framework, vehicle registration data was only available after a lengthy procedure and often therefore not useful (especially not for public order policing).

The hit-no hit search in databases for DNA en fingerprints has contributed to a decrease in time consuming processes with multiple Member States. It enables law enforcement to quickly identify links across the EU and provides essential information for criminal investigation and prosecution of criminals.

3. To what extent does the Prüm framework correspond to the needs/interests of different stakeholders?

| | Not at all | To a small extent | To some extent | To a large extent | Completely | I do not know |
|------------------|------------|-------------------|----------------|-------------------|------------|---------------|
| Victims of crime | | | | X | | |

| | | | | | | |
|-------------------------------|--|--|--|---|---|---|
| Criminal investigators | | | | | X | |
| Data protection authorities | | | | | | X |
| Forensic specialists | | | | | X | |
| Database custodians | | | | X | | |
| Legal practitioners | | | | X | | |
| Human rights organisations | | | | | | X |
| Other (please describe below) | | | | | | X |

Please explain in more detail. If you replied “other”, please describe it here.

The response for victims of crime is given from the perspective that the perpetrator gets caught and convicted.

4. Please provide any examples or (statistical) data how, if any, Prüm automated data exchange has helped to fight crime and terrorism.

The comparison of DNA, fingerprint and vehicle registration data through the Prüm framework leads to hundreds of hits each year for the Netherlands.

For example, Prüm automated data exchange with regard to fingerprints was used over 14.000 times in 2020. In 620 cases this resulted in information from another EU country that was relevant for the investigation.

5. The purpose of the Prüm automated exchange of data is to step up cross-border cooperation, particularly the exchange of information between authorities responsible for the prevention and investigation of criminal offences. In your view, has the Prüm framework improved the exchange of data between Member States?

- No
- To some extent

- Yes
- I do not know

Please explain in more detail.

Increased and faster access to the data has facilitated law enforcement in carrying out their work.

5.1 What factors have prevented the effective implementation of the automated data exchange under the Prüm framework? Multiple replies are possible.

- Technical reasons, e.g. compatibility with the requirements set in the Prüm Decisions;**
- Legal aspects, e.g. need to adapt national legislation;**
- Financial costs, e.g. setting up respective national databases, establishing bilateral connections with other Member States;
- Operational reasons, e.g. lack of efficient and effective work processes;
- Gaps or lack of clarity in the Prüm Decisions;
- Other (please describe below);
- I do not know

Please explain in more detail. If you replied “other”, please describe it here.

The integration of the technical documents into Decision 2008/616/JHA has been an obstacle to make the necessary amendments and updates to the Prüm system at a technical level in view of new technical possibilities and has made it less adaptable to national needs.

As regards the legal aspects our impression is that the changes in national legislation were hard to manage for some of the Member States, which led to long delays in national implementation. Implementation of EU legal provisions for more than 10 years is too long and requires reflection on the degree the EU legal framework was compatible with national situations from a legal, technical and operational perspective.

5.2 How has the Prüm framework contributed to improving the exchange of data between Member States?

| | I do not agree at all | I tend to disagree | I neither disagree nor agree | I tend to agree | I fully agree | I do not know |
|---|-----------------------|--------------------|------------------------------|-----------------|---------------|---------------|
| Harmonised rules allow more efficient data comparison between the police | | | | | X | |
| Decreased administrative burden for the police, as a part of the data exchange process is automated | | | | | X | |
| Faster access of the police to the relevant information | | | | | X | |
| Other (please describe below) | | | | | | |
| I do not know | | | | | | |

Please explain in more detail. If you replied “other”, please describe it here.

N/a

6. In your view, has the automated exchange of DNA, dactyloscopic and vehicle registration data resulted in any negative consequences?

- No**
- To some extent
- Yes
- I do not know

6.1 What are the main negative consequences of the Prüm framework?

| | I do not agree at all | I tend to disagree | I neither disagree nor agree | I tend to agree | I fully agree | I do not know |
|---|-----------------------|--------------------|------------------------------|-----------------|---------------|---------------|
| Undermining data security in national systems and when transferring data between national authorities | X | | | | | |
| Limiting of the right of data protection and privacy for the individual concerned (data subject) | X | | | | | |
| Limiting of other fundamental rights for the individual concerned (data subject) | X | | | | | |
| Other (please describe below) | | | | | | |

| | | | | | | |
|---------------|--|--|--|--|--|--|
| I do not know | | | | | | |
|---------------|--|--|--|--|--|--|

Please explain in more detail. If you replied “other”, please describe it here.

N/a

7. In your view, to what extent has the Prüm framework provided added value compared to what Member States could achieve in the field of law enforcement information exchange in the absence of the Prüm framework?

- I do not agree at all
- I tend to disagree
- I neither disagree nor agree
- I tend to agree
- I fully agree**
- I do not know

Please explain in more detail.

See below.

8. Over the time, several EU and international initiatives aim at facilitating the exchange of information between law enforcement authorities, such as Europol information systems, Interpol information systems, Schengen Information System, Council Framework Decision 2006/960/JHA. To what extent do you agree/disagree that the Prüm framework complements other EU and international action in the area of law enforcement information exchange?

- I do not agree at all
- I tend to disagree
- I neither disagree nor agree
- I tend to agree
- I fully agree**
- I do not know

Please explain in more detail.

The direct access to VRD and the hit-no hit mechanism for DNA and FP is

very efficient, the exchange of data once a hit has been established is carried out through the regular channels for exchanging information.

Art. 17 and 18 on joint operations and assistance in mass gatherings, disasters and serious accidents provides the legal basis for supporting Member States in law enforcement operations, which has not been laid down in other instruments and thus provided added value as well.

9. Are you aware of any overlaps with other law enforcement information exchange tools/instruments at EU or international level?

- No
- Yes
- I do not know

Please explain in more detail.

There is some overlap with the Interpol systems AFIS and SMV, which are still used for international alerts by the police. However, the Prum hit-no hit system is more advanced and the Interpol database contains only a limited number of persons and traces. There is also some overlap with the Europol Information System (EIS) and the Schengen Information System (SIS), but this pertains only to a limited set of data insofar as the information has been shared with these central systems in line with their legal framework. This does not compare to the size and scope of the national databases of all Member States because not all information from those databases is included in EIS or SIS.

With regard to VRD, the 3rd Driving License Directive is changed in such a way that driving license information is now available for police, however not yet in all situations. All datasets, currently exchanged between Vehicle Registration Authorities should be available for police as well, however the legal base is lacking in a lot of situations.

10. Is there anything else you would like to comment on with relation to the current EU policy on automated cross-border exchange of data between law enforcement authorities?

N/a

11. In your view, to what extent has the automated data exchange under the Prüm framework brought any efficiency gains in the law enforcement information exchange?

| | Not at all | To a small extent | To some extent | To a large extent | I do not know |
|-------------------------------|------------|-------------------|----------------|-------------------|---------------|
| Speed of exchanges | | | | X | |
| Administrative burden | | | | X | |
| Costs | | | | | X |
| Staff | | | | | X |
| Other (please describe below) | | | | | |

Please explain in more detail. If you replied “other”, please describe it here.

By preventing the need to query each Member State bilaterally, the automated data exchange under the Prüm framework improves the speed of exchanges and the administrative burden in particular. Regarding costs and staff the exact impact is difficult to ascertain.

12. Please provide any examples or (statistical) data how, if any, Prüm automated data exchange improved the efficiency of law enforcement information exchange (for example the change in waiting time for the responses, change in the number of queries per official that the law enforcement authorities are capable of serving, change in the costs of respective information systems/ICT developments, etc).

We do not keep such specific data on the efficiency gains.

13. In your view, have the costs (administrative, budgetary, in terms of personnel, etc.) related to the implementation of the Prüm framework been proportionate to its contribution in terms of the improvements in law enforcement information exchange?

| | Not at all | To a small extent | To some extent | To a large extent | Completely | I do not know |
|-----|------------|-------------------|----------------|-------------------|------------|---------------|
| DNA | | | | | X | |

| | | | | | | |
|---------------------------|--|--|--|--|---|--|
| Dactyloscopic data | | | | | X | |
| Vehicle registration data | | | | | X | |

14. Please explain in more detail why you deem the costs related to the implementation of the Prüm framework to be proportionate/disproportionate in relation to the efficiency gains.

The benefits (speed of exchanges, administrative burden) outweigh the investment required for the implementation of the Prüm framework. The costs for the VRD/NCP are low in any case.

Strengthening the automated data exchange under the Prüm framework

The following questions target the shortcomings identified by the Commission and the possibilities if and how to address these shortcomings.

15. The existing Prüm framework allows the exchange of DNA, fingerprint and vehicle registration data. There are other data in Member States' databases that are often the subject of cross-border information requests in criminal investigations. These are exchanged by sending manual queries to other law enforcement authorities that require human resources and that can take time. To what extent do you agree/disagree that this is a shortcoming in the law enforcement information exchange?

- I do not agree at all
- I tend to disagree
- I neither disagree nor agree
- I tend to agree**
- I fully agree
- I do not know

Please explain in more detail.

The Netherlands supports examining the introduction of additional data categories for automated exchange at EU level.

15.1 What do you consider to be the most appropriate means to address this shortcoming?

- No changes are needed.
- Member States should address it in bilateral/multilateral agreements with other Member States
- EU should provide support and guidance to facilitate cooperation between Member States' law enforcement authorities.
- EU legislation should be established to standardise and automate the exchange of additional data categories.**
- Other (please describe below)
- I do not know.

Please explain in more detail why (not). If you replied "other", please describe it here.

The Netherlands supports examining the introduction of additional data categories for automated exchange at EU level. Where there is clear added value of the automated exchange of these data categories through the Prüm framework, EU legislation to this end should be established.

15.2 What data could be exchanged under the same principles as provided by the Prüm framework?

| | No | Yes | I do not know |
|--|----|-----|---------------|
| Limited extract of police records | | | X |
| Driving licenses | | X | |
| Photos of suspects and convicted criminals | | | X |
| Ballistics | | | X |
| Other (please describe below) | | X | |

Please explain in more detail why (not). If you replied "other", please describe it here.

With regard to police records and ballistics, the Netherlands is still

studying the possible added value of adding these data categories instead of making better use of the current possibilities. The inclusion of photos of suspects and convicted criminals should be examined taking due account of the technical and legal aspects such as quality of the images and privacy. The Netherlands is in principle in favor of adding the category of driving licenses for the specific use in criminal investigations. Furthermore, additional technical vehicle data (e.g. mileage, vehicle colour) can be provided quite easily as well. This was also recommended by experts of Member States, including the Netherlands, in the focus group report on VRD.

16. In your view, can the inclusion of any data listed above in the Prüm framework entail risks (data security, data protection, other rights and freedoms)? Please describe any safeguards (procedural, technical, data protection, etc), if any, that you would consider necessary for this change in the Prüm framework.

In general, the automated exchange of data should be accompanied by high technical standards including privacy-by-design and safeguards for data protection. The fact that the Prüm framework already encompasses the exchange of (special categories of) personal data eases the introduction of additional data categories, as standards are already in place. However, the introduction of a category such as facial images could require additional safeguards.

17. In case of DNA and dactyloscopic queries, the exchange of personal data after a hit has been confirmed (step 2) is not governed by the Prüm Decisions, but by national law. Differences in administrative, legal, judicial systems lead to sometimes long waiting times and diverse practices in defining the data to be handed over. To what extent do you agree/disagree that this is a shortcoming of the existing Prüm framework?

- I do not agree at all
- I tend to disagree
- I neither disagree nor agree
- I tend to agree**
- I fully agree
- I do not know

Please explain in more detail.

The Netherlands is open to exploring ways to further simplify and streamline the exchange of this follow-up information, such as adopting time limits and a channel for transfer.

17.1 What do you consider the most appropriate means to address this shortcoming?

- No changes are needed.
- Member States should address it individually in their national legislation /procedures
- EU should provide support and guidance to facilitate cooperation between Member States' law enforcement authorities.
- EU legislation should be established to streamline the hit follow-up exchange of personal and case related data.**
- Other (please describe below).
- I do not know

Please explain in more detail why (not). If you replied "other", please describe it here.

With a view to harmonized procedures, it would be most suitable to set standards at EU level.

17.2 To what extent should the process be regulated at EU level?

| | Yes | No | I do not know |
|--|----------|----|---------------|
| Harmonising the deadlines to reply to a request | X | | |
| Determine the law enforcement information exchange channel through which the request and the reply should be submitted | X | | |
| Agree on a limited data set to be first provided in "fast track" | | | X |
| Establish a designated "Prüm" IT application for submitting and receiving the requests | | | X |
| Other (please describe below) | | | |
| I do not know | | | |

Please explain in more detail why (not). If you replied “other”, please describe it here.

With regard to time limits, it is important to take the consequences for the operational practice into account, including availability of software and personnel. The Netherlands is in favor of determining a primary channel through which the request and the supply should be submitted, as long as this does not limit the availability of the data for hit/no-hit querying for/with relevant law enforcement agencies in countries that are not connected to that channel. The channel may also differ according to the category of data. We are hesitant with regard to the querying and returning of limited core personal data in a semi-automated manner. For certain categories of data, such as fingerprints, a human check is always necessary. We are, however, open to exploring how processes may be further streamlined.

18. In your view, can the inclusion of any data listed above in the Prüm framework entail risks (data security, data protection, other rights and freedoms)? Please describe any safeguards (procedural, technical, data protection, etc), if any, that you would consider necessary for this change in the Prüm framework.

See above.

19. The existing Prüm framework is a decentralised network of bilateral connections between the national databases of Member States without any EU level central components. Not all Member States have established connections with all other Member States for various reasons. This could result in some queries not being checked against the data in some countries and may increase the possibility that some criminals are not identified, and some cross-border links between crimes are not detected. To what extent do you agree/disagree that this is a shortcoming of the existing Prüm framework?

- I do not agree at all
- I tend to disagree
- I neither disagree nor agree
- I tend to agree**

- I fully agree
- I do not know

Please explain in more detail.

The Netherlands does not have any problems with the system of bilateral connections, however we recognize that this is a problem for some Member States.

19.1 Which of the following options would seem the most appropriate technical solution for Prüm?

- Network of bilateral connections between Member States' databases (maintaining the current solution)
- Establishing an EU central router for transferring messages between Member States (so-called hub and spoke model) with limited functions at central level such as technical/operational system monitoring, collection of statistics.
- Establishing an EU automated biometric identification system (ABIS) that would allow matching biometric templates by a centrally managed technical solution.
- Other (please describe below)**
- I do not know

Please explain in more detail why (not). If you replied "other", please describe it here.

The Netherlands is in favor of further exploring the possibilities of establishing an EU central router for transferring messages between Member States. The focus groups on fingerprints and DNA, composed of experts from Member States including the Netherlands, reported extensively on this issue. We suggest to take their findings into account. For VRD the various options are not applicable. The Vehicle Registration Authorities adhere to the decentralized solution.

20. In your view, can the inclusion of any data listed above in the Prüm framework entail risks (data security, data protection, other rights and freedoms)? Please describe any safeguards (procedural, technical, data

protection, etc), if any, that you would consider necessary for this change in the Prüm framework.

We are hesitant with regard to any solutions allowing matches to be made at EU level if this means that the data will be stored centrally, as even meta data can provide insight into personal data.

21. Europol is the EU Agency for Law Enforcement Cooperation. Europol is not part of the Prüm framework, however Europol databases contain relevant data from 3rd countries about serious criminals and terrorists. This data is currently not compared against Member States criminal databases in a structured manner. To what extent do you agree/disagree that this is a shortcoming of the existing Prüm framework?

- I do not agree at all
- I tend to disagree
- I neither disagree nor agree
- I tend to agree
- I fully agree
- I do not know**

Please explain in more detail.

The Netherlands is still studying the added value of participation of Europol in the Prüm framework.

22. Which of the following options would seem the most appropriate participation of Europol in the Prüm framework?

- No changes are needed.
- Europol could improve the availability of relevant data through existing Europol information systems.
- EU legislation should be established to allow Europol to exchange data in the Prüm framework.
- Other (please describe below)
- I do not know**

Please explain in more detail why (not). If you replied “other”, please describe it here.

See above.

23. In your view, can the inclusion of any data listed above in the Prüm framework entail risks (data security, data protection, other rights and freedoms)? Please describe any safeguards (procedural, technical, data protection, etc), if any, that you would consider necessary for this change in the Prüm framework.

See above.

24. In several Member States Prüm biometric data exchanges cannot be used for searching missing people and unidentified human remains as this is not a criminal investigation according to national legislation. To what extent do you agree /disagree that this is a shortcoming?

- I do not agree at all
- I tend to disagree
- I neither disagree nor agree
- I tend to agree
- I fully agree**
- I do not know

Please explain in more detail.

The Netherlands has a database of missing persons and UHR which is shared with Interpol, but we are aware this is not the case for all Member States. At the moment only a one-to-one comparison of DNA profiles via Prüm is possible. This is very limited for the identification of missing persons / UHR. A system will have to be developed for this, and legislation will have to be adopted, both in the Member States and at EU level. However, given the duty of care that countries have towards their citizens, the Netherlands is happy to explore the possibilities in this area.

The experts have proposed a number of possible changes in the existing vehicle registration data queries.

25. In order to further improve the criminal investigations, especially regarding stolen vehicles, it might be useful to have additional data provided in the reply to a query on vehicle registration data, such as mileage or vehicle colour. To what extent you agree/disagree that this new data should be added in the reply to a query on vehicle registration data?

- I do not agree at all
- I tend to disagree
- I neither disagree nor agree
- I tend to agree**
- I fully agree
- I do not know

Please explain in more detail.

As also noted by the experts in the focus group on VRD in their report, the exchange of more technical vehicle data would be useful for various police purposes. This includes mileage information and vehicle color. It should be taken into account, however, that both can be easily changed or tampered with by the vehicle owner and the information is therefore not always reliable.

26. In criminal investigations it might be useful to have knowledge of all vehicles registered in the name of a certain natural person or legal entity. To what extent you agree/disagree that this query should be allowed under Prüm framework as a follow-up request to the existing query on vehicle registration data?

- I do not agree at all
- I tend to disagree
- I neither disagree nor agree**
- I tend to agree
- I fully agree
- I do not know

Please explain in more detail.

While the information could certainly be useful to criminal investigations, it is important such queries are accompanied by necessary safeguards to protect the privacy of those involved.

27. In criminal investigation, it might be useful to know if any other Member State has previously made queries regarding the same vehicle. To what extent you agree /disagree that this information could be flagged in the reply to a query concerning vehicle registration data?

- I do not agree at all
- I tend to disagree
- I neither disagree nor agree
- I tend to agree**
- I fully agree
- I do not know

Please explain in more detail.

As also noted by the experts in the focus group on VRD in their report, this information would be useful for various police purposes.

28. In your view, can any of these options listed above regarding the improvements in vehicle registration data queries entail risks (data security, data protection, other rights and freedoms)? Please describe any safeguards (procedural, technical, data protection, etc), if any, that you would consider necessary for this change in the Prüm framework.

All options are already implemented for other legal purposes.

29. Are there any other shortcomings in the current Prüm framework that should be addressed? If yes, how would you suggest addressing these?

We refer to the detailed suggestions made by experts in the five focus groups. As a horizontal issue, we would like to point out that the inclusion of the technical, administrative and forensic standards in Council Decision 2008/616/JHA has been an obstacle to make the necessary amendments and updates to the Prüm system at a technical level. The Netherlands suggests to change the legal structure of Prüm to allow for more flexibility. In addition, an update of the data protection provisions is

required to bring the Prüm framework fully in line with the Law Enforcement Directive.

30. In your view, are there any aspects of the existing Prüm automated exchange of data that should not be changed?

N/a

31. Do you have any other comments that you wish to make on the Prüm automated exchange of data?

It is clear that there were long delays in national implementation of the original Prüm decisions. Implementation of EU legal provisions for more than 10 years is too long and requires reflection on the degree the EU legal framework was compatible with national situations from a legal, technical and operational perspective. The modernization of Prüm should not lead again to such delays in implementation and consequently it is important to address implementation concerns throughout the process of developing the new legal framework with a view to swift technical and operational implementation of the agreed legislation.