



Council of the
European Union

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LIMITE

**JAI 27
DAPIX 19
CRIMORG 10
ENFOPOL 27
ENFOCUSTOM 13**

NOTE

From: Presidency
To: Working Party on Information Exchange and Data Protection (DAPIX)
Subject: Prüm/DNA data exchange evaluation of United Kingdom (UK)
- Report of the evaluation visit (London, 17 January 2017)

The current report is based on the replies of the United Kingdom to the relevant questionnaires, namely the questionnaire on data protection (14950/1/16 REV 1 DAPIX 214 ENFOPOL 437 CRIMORG 154) and the questionnaire on exchange of DNA data (5303/17 DAPIX 16 ENFOPOL 25 CRIMORG 9), and includes the findings of the evaluation team during the visit.

In accordance with Council Decision 2008/615/JHA, Art. 25(2), and Council Decision 2008/616/JHA, Art. 20(2), as well as Chapter 4 of the Annex thereto, the Netherlands, as partner state of the United Kingdom in the framework of implementing the provisions on DNA data exchange, made a visit to London on 17 January 2017.

The evaluation was carried out in line with the DNA evaluation procedure (11899/2/10 REV 2 DAPIX 8 CRIMORG 141 ENFOPOL 203 + COR 1) and the queries of the check list set out in its Annex II were made.

The evaluation was a duplication of the one carried out by the Netherlands on 2 March 2015 prior to the start of the pilot comparison of UK DNA profiles with The Netherlands, France, Germany and Spain. It was repeated to fulfil the procedural requirements laid down in Decision 2008/615/JHA and Decision 2008/616/JHA.

1. Participants of the evaluation

The list of the evaluation team members and the delegates from the United Kingdom who provided the information to the evaluation team is set out in ANNEX I.

2. Evaluation

The areas mentioned in 11899/2/10 REV 2 DAPIX 8 CRIMORG 141 ENFOPOL 203 + COR 1 were investigated by evaluating the presentations, demonstrations and answers to questions of the evaluation given by the UK representatives. The outcome of this process is shown in the enclosed checklist (ANNEX II).

3. Pilot Run / Test Run

The test set developed by the Netherlands was used during the pilot with the Netherlands, Spain, France and Germany to check the configuration of CODIS 7.0 and the TESTA connection of the UK. The outcomes were correct or could be explained by known bugs of CODIS 7.0 which have been reported to the FBI for correction. The CODIS configuration of the UK has been rechecked and also the ability to send and receive Prüm Search Requests.

4. Recommendations given to the UK

4.1 During the evaluation, the UK had indicated that only profiles of 10 full loci or more would be made available for international comparisons. However, the evaluation team has recommended to include also profiles containing 6, 7, 8 and 9 full loci because such profiles may also yield valuable matches (although some extra work may be needed to exclude a false positive match). In addition, also 10 locus profiles can cause 6 locus matches if the DNA-profile of the other Member State only contains 6 of the 10 loci present in the UK profile.

Subsequently, the UK has updated their process to comply with this recommendation. In line with the inclusion rules set out in Decision 2008/616/JHA, Annex, Chapter 1, pt. 1.1, the UK will make available DNA profiles for searching and comparison and send out DNA profiles which contain at least six full designated loci.

- 4.2** The UK had also indicated that, in accordance with Art. 5 of Decision 2008/615/JHA, further personal data and other information would be provided only for matches which have at least 10 fully matching loci.

However, the evaluation team has indicated that this is not a scientific criterion as also matches containing less than 10 fully matching loci can have a high (and even higher) evidential value. The evaluation team fully understands the wish of the UK to prevent the transfer of personal information based on potentially false positive matches but recommends to use a Random Match Probability criterion.

The UK has indicated that for matches where 10 loci have been matched and validated, follow up requests for demographic data will be routinely provided. Requests where matches of less than 10 loci will need to be assessed on a case by case basis. As the UK's National DNA database has a large number of profiles, to reduce the possibility of adventitious matching, they require a higher number of loci to match for the hit to be guaranteed to be a true one. In line with Decision 2008/616/JHA, Annex, Chapter 1, pt. 3.2, the second step in these cases would imply to try and improve the number of matching loci (10 loci or comparable to a random match probability of 1 in a billion). If this is not possible, then the case will be assessed on proportionality.

- 4.3** By the time of drafting the evaluation report, the UK had not yet informed the General Secretariat of the Council of the national DNA analysis files to which Articles 2 to 6 of Decision 2008/615/JHA apply and the conditions for automated searching as referred to in Art. 3(1) of Decision 2008/615/JHA.

In order to comply with Art. 36 of Decision 2008/615/JHA and to speed up the decision taking procedure, the evaluation team recommended to submit as soon as possible the declaration provided by the Decision.

5. Conclusion

Subject to the submission of the declaration on DNA analysis files, the evaluation team concluded that based on the outcome of the evaluation visit the UK has correctly implemented Council Decisions 2008/615/JHA and 2008/616/JHA with respect to the exchange of DNA profiles and is ready to start exchanging DNA profiles with other operational Member States.

The evaluation team proposes that once the UK has submitted the abovementioned declaration the Working Party on Information Exchange and Data Protection (DAPIX) informs the Council that, for the purposes of automated data exchange of DNA data, the United Kingdom has satisfactorily implemented the provisions of the abovementioned Decisions.

Participants of the evaluation

Evaluation team	
Dr. Ir. C.P. (Kees) van der Beek MBA	DNA-expert Custodian of the Dutch DNA database; Netherlands Forensic Institute
Drs. M.P.C. Laman Trip,	IT expert of the Dutch DNA database Netherlands Forensic Institute
UK participants	
Gary Pugh	Director of forensic services Metropolitan Police Services (MPS)
Katherine Bach	DNA intelligence analyst Metropolitan Police Authority (MPA)
Makhan Birdi	DNA intelligence analyst MPA
Shazia Khan	DNA Services Manager MPS
John Potts	Head of Information Law Strategy; Deputy Data Protection Officer and Deputy Freedom of Information Office MPS
Ulla Irion-Cordwell,	G5 Officer - Casework Co-ordination Unit MPS
Hilary Brown	Policy lead for Prüm, Home Office
Derek Lloyd	National Crime Agency (NCA)

Evaluation checklist on exchange of DNA data with the MPS

	YES	NO	N/A
1.1 Did the DMS inform the Council Secretariat of the national DNA analysis files in accordance with 2008/615/JHA, Art. 2 (3)?		X	
1.2 Is the National Contact Point (technical NCP) in accordance with Council Decision 2008/615/JHA, Art. 6, for incoming and outgoing requests in place and have contact details of this NCP been communicated to the Council Secretariat?	X		
1.3 Is the National Contact Point (technical NCP) in the position to ensure and control the necessary technical availability in accordance with 2008/616/JHA Art.5 ?	X		
1.4 Has the access to the system on DNA data exchange been granted to officials in the law enforcement agency at federal level or agencies at state level?	X		
1.5 Is a National Contact Point (NCP) foreseen for the supply of further personal data and other information exchange in case of a confirmed hit for incoming and outgoing requests (2 nd step procedure in accordance with Council Decision 2008/615/JHA, Art. 5) and have contact details of this NCP been communicated to the Council Secretariat?	X		

1.5.1. Please describe the planned further data exchange workflow in key-words (planned communication channels and workflow of 2nd step):

Workflow of 2nd step (Request from UK to Member State):

In case of a “hit” (validated by the other MS and the MPS).

1. Message received into UKICB from UKIC stating there has been a match
2. UKICB Review match notification:
 - a. Are there PRUM reference numbers?
 - b. Are there DNA barcodes for UK and Member State?
 - c. Is there a match reference? The Match Reference will be UKDNA-code/MSDNA-barcode
 - d. Does it state the offence committed?
 - e. Is there a crime reference/exhibit number?
 - f. Does it mention the date of the offence?
3. If no reject the request and re-start the process once process is re-submitted
4. If yes create and manage case on CIMS. Request details from Member State
5. If positive response – evaluate and disseminate response to responsible UK LEA
6. If negative response - inform the UK LEA that the MS will not disseminate information on the subject.

(*Please note from this point onwards any actions related to this case will be recorded on CIMS, e.g. emails, criminal convictions)

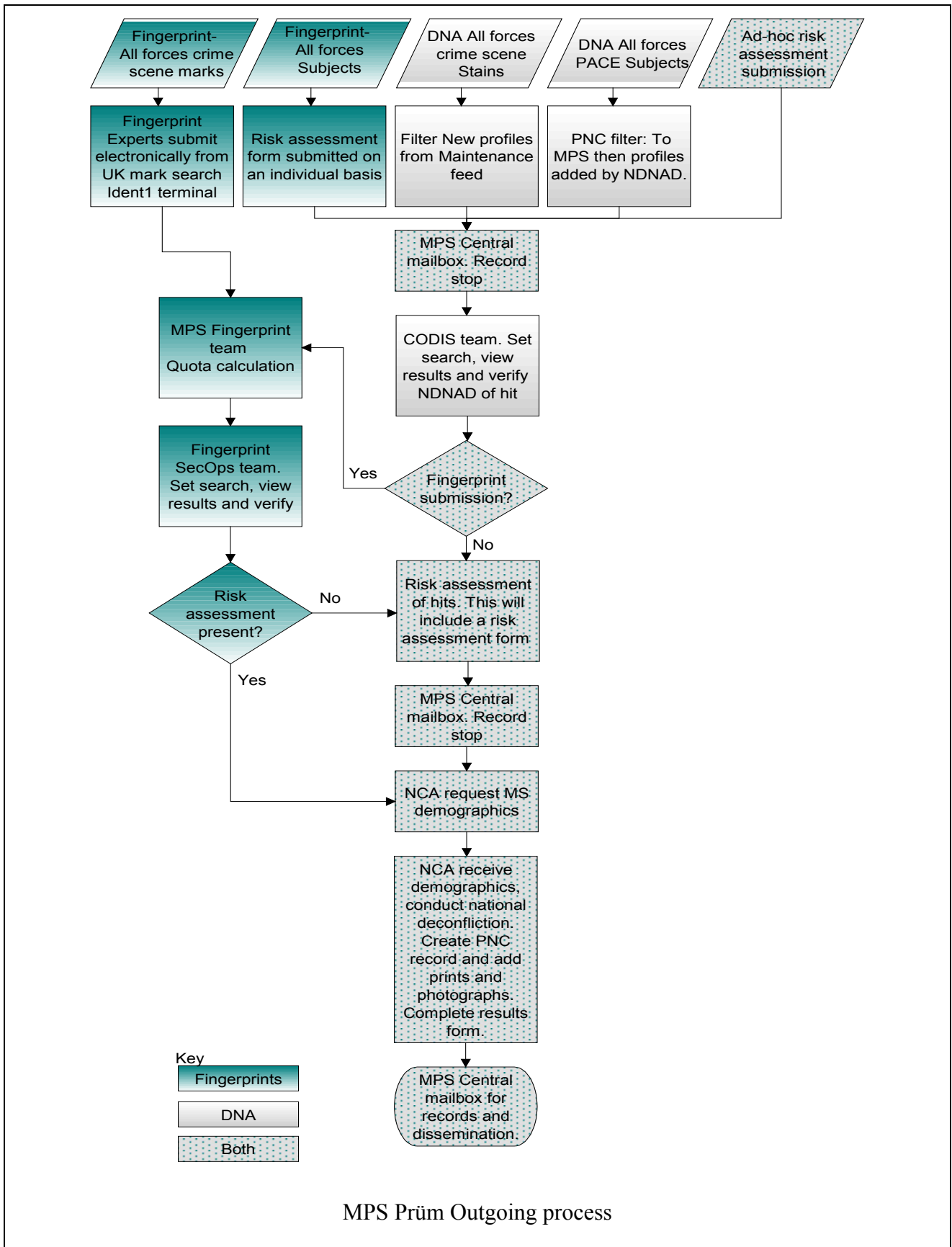
Workflow of 2nd step (Request from Member State to UK):

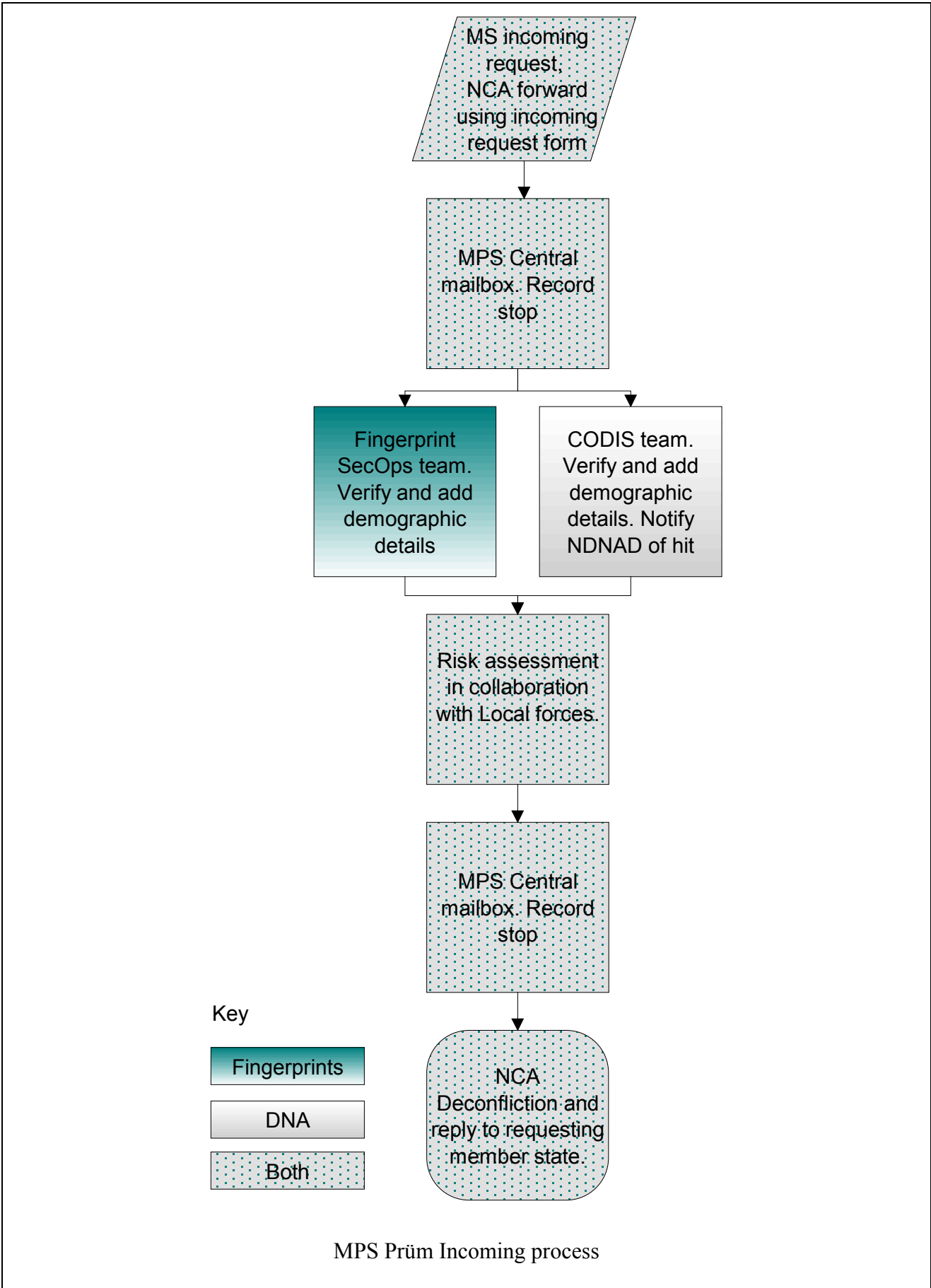
In case of a “hit” (validated by the other MS and the MPS).

1. Message received into UKICB from UKIC stating there has been a match.
2. Review match notification:
 - Are there PRUM reference numbers?
 - Are there DNA codes for UK **and** Member State?
 - Is there a match reference? The Match Reference will be UK DNA-code/MS DNA-code

- Does it state the offence committed?
 - Is there a crime reference/exhibit number?
 - Does it mention the date of the offence?
3. If no reject the request to MS and re-start the process once process is re-submitted
 4. If yes create and manage case on CIMS. Request details from Member State
 5. Contact MPS DNA Technical team to confirm match is verified
 6. Conduct research on National Systems Knowledge Base (KB) and Police National Computer (PNC) for deconfliction
 7. E-mail the UK LEA requesting
 8. Current demographic on subject
 9. Permission to disseminate information to the requestor MS
 10. UKICB collate and evaluate responses
 11. Disseminate the information to the Member State for Intelligence Purposes only, not for use within any legal proceedings.

Please see attached a systematic representation of the process and flow of information between the MPS and NCA.





1.5.2. Please note the contact address of the responsible 2nd step NCB:

manchester@nca.x.gsi.gov.uk

2. TECHNICAL			
	YES	NO	N/A
2.1 Is the technical implementation a fully automated procedure without human intervention for incoming requests?	X		
2.2 Is an own test system installed?	X		
2.3 Is the data pool defined which should be available for Prüm searches in accordance with national legislation?	X		
2.4 Are hit message information tools implemented to recognise new hits?	X		
2.5 Are functionalities such as <u>GUI</u> or (scheduled triggers) implemented to start the defined searches?	X		
2.6 Is automated searching according to Council Decision 2008/615/JHA, Art 3 (Are systematic Article 3 searches) foreseen against Prüm partner countries with new loading unsolved stains and new reference profiles?	X		

<p>2.7 Are logging, storage and deleting procedures for log data in accordance with Council Decision 2008/615/JHA, Art. 30 in place?</p>	<p>X</p>		
<p>2.8 Are responses to requests pursuant to Article 3 of Decision 2008/615/JHA dispatched to reach the requesting Member State within 15 minutes of the arrival of requests?</p>	<p>X</p>		
<p>2.9 Do your technical systems (application and communication) fulfil the technical requirements of a standardized high availability system? If they differ, please specify (see 2.3)</p>	<p>X</p>		
<p>2.10 Describe the availability of your technical systems (application and communication)</p>			
<p><i>CODIS-server according to specifications from supplier installed</i></p> <p><i>Server, SGSI network, S-TESTA network and applications operational 24/7 except for downtime due to normal system maintenance for which notification will be circulated</i></p>			

2.11 Describe in the box below the technical architecture of DNA system in the MPS. Please include diagram/s as well for the evaluation team to get a firm idea of your national set-up.

