

DNA data exchange in Europe

European Conference on international
DNA data exchange in criminal justice



June 5 and 6, 2008

Maastricht/Heerlen, The Netherlands
OpenUniversity The Netherlands

www.dna-conference.eu

DNA data exchange in Europe
European Conference on international DNA data exchange
in criminal justice (www.dna-conference.eu)
Organised by Law Faculty of the Open University of The Netherlands



Venue

Maastricht/Heerlen, The Netherlands, campus of the Open University

Date

June 5 and 6, 2008

Participants (max. 100)

All those interested in the development of international co-operation in criminal justice and in the forensic use of DNA: prosecutors, senior police officers, policy makers, judges, attorneys, academics

Language

English

Registration and fee

For the registration form see www.dna-conference.eu

There will be no registration fee. Expenses for participation and stay (hotel night 5-6 June, lunches and dinner) will be covered. Registration will be final after confirmation. In case the registration outnumbers the maximum of 100 participants, the organising committee will decide on confirmation on the basis of the following criteria: time of registration, expertise and geographical divergence.

Conference topic

The exchange of DNA data represents a major growth area in the criminal law enforcement initiatives in the EU. The European Council has proposed to intensify the cross border co-operation along the lines of the Prüm Treaty, including the exchange of DNA data. June 2007 the European Parliament has supported this initiative provided that protection of personal data is safeguarded by stricter conditions.

Consequently, recently developed instruments on bilateral and multilateral level are to be incorporated in the EU acquis. The treaty of Prüm is accepted as prototypical. The recently adopted bilateral Treaty of Enschedé (GER-NL) however differs from Prüm in the matter of DNA data exchange. The Prüm Treaty is in the process of implementation by The Netherlands, while earlier deployment of the mechanism has already worked between Germany and a.o. Austria. Several EU members already joined the Prüm group.

The approach that appears to be successful so far is that of the exchange of information. In the law on international co-operation in criminal matters the exchange of information is handled separately from the exchange of evidence. The exchange of information stems from the early initiatives on police-to-police basis in the Schengen area. Assistance in the compilation of evidence on the contrary has always been dealt with on the classical treaty-oriented practice of mutual co-operation. The regulation of information exchange has a design different from the regulation of evidence exchange. The principle of availability is announced to be leading in the field of police-to-police information exchange, whereas in the field of exchange of evidence the EU experiences already problems in the implementation of the principle of mutual recognition (e.g. the stagnation in the introduction of the European Evidence Warrant).



In the DNA case this divided development is put to the test, due to the particular features of a DNA hit. A hit, understood as the result that a DNA marker is present in the consulted database and can be connected to personal details, is not merely information, but almost always carries a reliable and clear-cut contribution to conclusive or exclusive evidence. The classical schism between information and evidence becomes apparent when in the recent treaty-instruments the exchange of DNA evidence after a hit has to be established by way of an official request. A hit is information and the upgrade to evidence requires additional procedural steps. The added value of these steps have to be explored from a national and international perspective. Hypothetically the justification might be found in the legally supported privacy objection: cross border proliferation of DNA data linked to personal details is a violation of informational privacy. The validity of this objection must be researched.

The partially implemented Tampere approach of co-operation under the principle of mutual recognition does not fundamentally change the different approaches to information and evidence. The Framework Decisions based on the principle of mutual recognition only simplify procedures but do not bridge the schism between information and evidence. The result will always remain an accumulation of procedural steps. The Framework Decision on simplifying the exchange of information and intelligence between law enforcement authorities of 18 december 2006 only confirms this difference in approach. It is time to question the effectiveness of the resulting inefficiency, to which the DNA case is particularly apt. That is the legal-political and academic side of the conference theme. The analysis summarized above will be elaborated and the arguments to uphold the schism will be subject of thorough scrutiny, from a national as well as from a integrated level. The national level will focus on the evidential requirements for information to become evidence and the fundamental observations that explain the difference. The integrated level will focus on the integral observations such as privacy protection and reliability.

The other side is the practical implementation of recently introduced DNA data exchange instruments such as Prüm. What are the options under the new mechanism and for which area's of crime will it prove to be useful? Are there possible legal and technical problems and how can those be tackled proactively?

Finally, it is a proper moment to explore the future proactively. Are we moving into the direction of effectively joining all databases to one European database? If that is going to be the case, will there be problems stemming from different marking techniques? What will be the major legal issues of that development? Are there relevant reservations to the high expectations associated with DNA as evidence in the long run, either expressed in biotechnical terms or expressed in terms of practical usefulness? Will the separation between information and evidence hold in the long run?

Programme

All locations are at the OUNL campus; Valkenburgerweg 177, NL-6419 AT Heerlen (unless indicated otherwise)



Thursday June 5, 2008

Pretoria building, entrance and meeting hall (ground floor)

10.00-11.00 **registration and reception**

Pretoria building, Grand hall (1st floor)

11.00- 11.20 **Opening speech** by J.L. Lopes da Mota, President of the College, EUROJUST (invited)

11.20-11.50 Old and New Boundaries; **Introduction into the Conference Theme** (E.F. Stamhuis; Open University, The Netherlands)

Pretoria building, entrance and meeting hall (ground floor)

11.50-12.10 **break for coffee/tea**

Pretoria building, Grand hall (1st floor)

12.10-12.40 **Development of the Principle of Availability** (M. Böse; Rheinische Friedrich-Wilhelms University, Bonn, Germany)

12.40-13.25 **The Prüm Mechanism: Implementation and Rules of the Game** (C.P. van der Beek; Netherlands Forensic Institute, The Netherlands)

Pretoria building, entrance and meeting hall (ground floor)

13.30-14.45 **lunchbuffet**

Pretoria building, Grand hall (1st floor)

P 14.45-15.15 **From Prüm to Brussels? The Incorporation of the Prüm Instruments into the EU-acquis** (F. Gandini; Ministero della Giustizia, Italy)

P 15.15-15.45 **The European Data Protection System and DNA Data Exchange** (P. de Hert; University of Tilburg, The Netherlands/University of Brussels, Belgium).

P 15.45-16.15 **Reconciling Information Exchange and Confidentiality; Technological Approaches** (W. Teepe; Radboud University Nijmegen, The Netherlands)

Pretoria building, entrance and meeting hall (ground floor)

16.15-16.45 **break for coffee/tea**

Pretoria building and LEX building

16.45-18.15 **Expert-sessions first run; see next page for topics**

18.30 **departure by touring car to Maastricht dinner venue**

Kasteel Vaeshartelt, Weert 9, NL-6222 PG Maastricht

19.00 **conference dinner**

After the conference dinner the touring cars will depart for the Maastricht hotels.

Friday, June 6, 2008



Checkout Maastricht hotel(s).

09.00-09.30 **Journey by touring car to the conference venue**

Pretoria building, Grand hall (1st floor)

09.30- 10.00 **The Implementation of the Prüm System; the Example of the Euregion Maas Rijn** (W. van de Ven; Bureau for Euregional Co-operation; The Netherlands)

10.00-10.30 **Criteria for Implementation of European Legal Instruments Applied to the DNA Case** (P.H. van Kempen, Radboud University Nijmegen, & F. Kristen, University Utrecht, The Netherlands)

Pretoria building, entrance and meeting hall (ground floor)

10.45-11.15 **break for coffee/tea**

Pretoria building and LEX building

11.15-12.45 **Expert-sessions second run; see below for topics**

Pretoria building, Grand hall (1st floor)

13.00-13.30 **Closing session**

Pretoria building, entrance and meeting hall (ground floor)

13.40-14.45 **lunchbuffet**

14.45 **Departure**

At departure time a touring car will drive to the Heerlen railway station.

Expert sessions (4 parallel sessions, repeated 2 times: on Thursday and Friday)

I. Implementation of an exchange mechanism; problems, solutions and best practices

- practical experiences with Prüm (e.g. between Germany and Austria)
- experiences with old style DNA data exchange and Interpol facility

II. Safeguards and procedure

- Legal arrangement of data exchange mechanisms
- Relevancy of procedural steps in co-operation procedure
- Intelligence versus evidence

III. Relevancy of DNA data in combat of (cross border) crime and terrorism. 3 Cases.

- Organised crime
- Cross border common crime

IV. The future:

- one data base?
- are high expectations justified?
- technological aspects

Speakers (I):

J. Wang, BundesKriminalAmt Wiesbaden, Germany
T. Wilson, Visiting Fellow, PEALS (Policy, Ethics and Life Sciences: a joint research institute of Newcastle and Durham universities with the Centre for Life, Newcastle) England

Speakers (II):

a.o. M. de Bruijn LLM, Open University The Netherlands).

Speakers (III):

a.o. A. Cisterna, National Anti-mafia Bureau, Italy (invited)

Speakers (IV):

T. Broeders, Maastricht Forensic Institute, The Netherlands;
J. Verbeek & H.J. van den Herik, MICC Institute for Knowledge and Agent Technology, Maastricht, The Netherlands.
K. Dierickx, Centre for Biomedical Ethics and Law, Leuven, Belgium.

Sponsor Information



So far sponsoring has been granted by the following persons/institutions:

Ministry of the Interior and Kingdom Relations (Ministerie van Binnenlandse Zaken en Koninkrijksrelaties) <http://www.minbzk.nl/bzk2006uk/>

Municipality Heerlen (Gemeente Heerlen) <http://www.heerlen.nl/>

Board Open University NL (College van Bestuur OUNL) <http://www.ou.nl/>



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