

European Scrutiny Committee

House of Commons, London, SW1A 0AA

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From: Sir William Cash MP

21 October 2020

Rt Hon. James Brokenshire MP
Minister of State for Security
Home Office
2 Marsham Street
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**Cross-border police cooperation: the automated exchange of DNA and fingerprint data under Prüm
(Council Implementing Decision (EU) 2019/968 and Council document 14247/19) (ESC numbers 40679 and 41121)**

Thank you for your letter of 7 October 2020 informing us that fingerprint exchanges with Germany via the Prüm network began on 5 October and that exchanges with other EU Member States are expected to follow shortly. The European Scrutiny Committee has also considered your [further letter of 9 October 2020](#) responding to concerns we raised in our [Nineteenth Report](#) of Session 2019-21 and in [our letter of 3 September 2020](#) about the Government's decision to share the DNA profiles and fingerprints of criminal suspects in its exchanges with other Prüm participating countries, contrary to assurances given to Parliament in December 2015.

We are disappointed that you do not explain why the Government failed to “write into legislation” the specific safeguard set out in the Resolution agreed to by the House that “only a subset” of DNA profiles and fingerprints relating to convicted criminals would be made available for searching by other EU Member States participating in Prüm.¹ We note your commitment to “continued adherence to the important and effective safeguards set out in the Prüm Decisions” but as you acknowledge in your letter, the Government and the House considered that these safeguards needed strengthening. We reiterate our deep disquiet that the central safeguard agreed then—the exclusion from automated Prüm searches of biometric data relating to individuals who have not been found guilty of a crime—has been

¹ [Hansard, 8 December 2015](#), cols 914 to 963.

removed following a policy review without proper scrutiny by Parliament or opportunity for a debate and vote.

Your assurance that the Information Commissioner and Biometrics Commissioner “were aware” of the policy change because they sit on the Forensic Information Database Service (FINDS) Board, and that the Office of the Biometrics Commissioner was “consulted separately [...] and raised no significant objections”, provides little comfort. We question whether “being aware” constitutes an adequate degree of oversight and scrutiny of a policy change which we consider to be significant. Your response also suggests that the Biometrics Commissioner did have some concerns which it would have been helpful for you to share with us, even if you do not consider them to be significant.

Finally, you have nothing of substance to say in response to our request for an update on the progress being made in negotiations with the EU on agreeing capabilities similar to those provided by Prüm as part of a future agreement on criminal justice and law enforcement cooperation. Should we infer from this that no progress has been made? Given that all Prüm data exchanges will cease when the post-exit transition period ends on 31 December 2020 and the safety and security of UK citizens is at stake, we expect far more meaningful engagement from the Government in explaining what successor arrangements it expects to apply from 1 January 2021. We repeat our request for a progress report on negotiations, your assessment of the main sticking points, the prospects for reaching an agreement, and the likelihood that it will take effect from 1 January 2021.

We look forward to receiving your response within ten working days.

I am copying this letter to the Chair (Rt Hon Hilary Benn MP) and Clerk (Gordon Clarke) of the Committee on the Future Relationship with the European Union; the Chair (Rt Hon Yvette Cooper MP) and Clerk (Elizabeth Hunt) of the Home Affairs Committee; the Chair (Sir Robert Neill MP) and the Clerk (David Weir) of the Justice Committee; the Chair (Rt Hon Harriet Harman QC MP) and the Clerk (Lucinda Maer) of the Joint Committee on Human Rights; the Chair (Rt Hon Greg Clark MP) and Clerk (Danielle Nash) of the Science and Technology Committee; the Chair (the Earl of Kinnoull) and Clerk (Stuart Stoner) of the Lords European Union Committee; Alex Bernal of your Department; and Les Saunders and Donald Harris in the Cabinet Office. I am also sending a copy to the Biometrics Commissioner (Professor Paul Wiles).

CHAIR