

Minor Interpellation submitted by Member of the Bundestag Andrej Hunko and others and the Left Party parliamentary group

Measures by the EU law enforcement agency Europol relating to foreign fighters

Bundestag printed paper 18/3910

Preliminary remarks of the questioners:

The EU law enforcement agency Europol has set up a "Focal Point Travellers", in which "foreign fighters" are recorded (www.statewatch.org/news/2014/nov/eu-foreign-fighters-16002-14.pdf). This constitutes an extensive collection of data, which individual Member States are involved in through contributing and extracting data. The Federal Criminal Police Office (BKA) is also involved in this. Europol has a total of 20 "Focal Points". Another Focal Point is "Islamist Terror", which one can assume is identical in part to the "Focal Point Travellers". Apart from EU Member States, Australia, Norway and Switzerland are participating. Serbia, Macedonia and the US Border and Customs agency intend to participate according to the Federal Government. Europol and the EU border agency Frontex concluded an agreement on the exchange of personal data in November 2014, which was subsequently presented to the respective Management Board of the two agencies and finally the data protection authorities. According to the Counter-terrorism Coordinator, in October a group called "Dumas" was set up on the issue of "foreign fighters", which is headed by Italy and supported by Europol. Its main focus is "travellers alert lists (co-driver Austria), outreach measures (co-driver Hungary and Spain), best practice (co-driver France, UK), indicators (co-driver Germany, Luxembourg) and facilitators (co-driver Spain, UK)". In addition, Europol is carrying out a feasibility study, the Counter-terrorism Coordinator states, which could enable the technology "Ma3tch" used for the EU network of Financial Intelligence Units (FIU.net) to be used in the "Europol context". This would make it possible for "the local sources of highly-confidential information to be virtually integrated using a decentralised computer system", which according to the CTC Mr Kerchove would enable "identification of "need to know" information in real time without information being transmitted to Europol". The Federal Government has stated in this regard that its agencies are not authorised to use the "Ma3tch" technology (printed paper 18/2888).

1. What is the stance adopted by the Federal Government in the debate on the question of whether Europol could be expanded into a "Counter-terrorism Centre" or that such a centre could be attached to Europol (for instance, based on the model of the European Cybercrime Centre)?

On 1.

The Federal Government rejects this.

2. What other tasks could Europol assume from the Federal Government's point of view regarding the exchange of information via the information systems SIS II, EIS, Focal Point "Travellers" and PNR?

On 2.

The existing information systems SIS II, EIS and the Focal Point "Travellers" should be used to a greater degree. This does not entail Europol assuming additional tasks. The draft Directive on the use of Passenger Name Record data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime (draft EU PNR Directive - COM(2011) 32 final) attributes no role to Europol.

3. What knowledge does the Federal Government have of the extent to which meetings took or are taking place in 2014 or 2015 between the EU agencies Frontex and Europol and the intelligence

situation centre IntCen on "foreign fighters", if so where did these take place, who prepared them and who attended them?

On 3.

The Federal Government has no information on this.

4. As things currently stand, with which staff and at which locations does the Federal Ministry of the Interior intend to participate in the Latvian Council Presidency's joint police operation "Amberlight 2015" in the first two weeks of April 2015 (Council document 1092/15)?

On 4.

The operational planning for the joint police operation "Amberlight" has not yet been completed. Decisions on operational locations and staff in Germany are still pending.

5. Which Member States or other players are taking part in the expert group "DUMAS" to the knowledge of the Federal Government?

- a) On whose initiative and for what reason was the group set up?
- b) Who is leading the group, and who is supporting it?
- c) Which sub-working groups exist and who heads these?
- d) What specific tasks and aims are the sub-working groups pursuing (please explain)?
- e) How is information fed into the network and retrieved?

On 5.

To the knowledge of the Federal Government only the EU Member States are participating.

a)

The Dumas working group (Dumas WG) established by Europol pursues the aim of supporting the EU Member States in combatting the phenomenon of "foreign fighters".

b)

Italy has overall leadership of the working group. "Co-drivers" have lead responsibility for the respective sub-working groups (SWG).

c)

Five SWG were established:

- "Alert List" (headed by Austria),
- "Outreach" (headed by Spain and Hungary),
- "Best Practices" (headed by Great Britain and France),
- "Facilitators" (headed by Spain and Great Britain),
- "Indicators" (headed by Germany and Luxembourg).

d)

The SWG pursue the following aims:

- “Alert List”: harmonisation of SIS II, Europol Information System,
- “Outreach”: securing partner agencies in third countries,
- “Best Practices”: identification of best practices and lessons learnt,
- “Facilitators”: operational analysis of facilitator networks,
- “Indicators”: generation of indicators to detect Syria travellers.

e)

The information is transferred by the participating EU Member States via the respective Europol National Unit (ENU) to the Dumas WG at Europol and received from there.

6. In the view of the Federal Government, to what extent could the European Criminal Records Information System (ECRIS) be used to combat “foreign fighters”?

On 6.

At the time of the adoption of the Council Framework Decision 2009/315/JHA, which forms the legal basis for the European Criminal Records Information System (ECRIS), the Council already made reference to the Declaration of the European Council on 25 and 26 March on combatting terrorism, in which it names ensuring the effectiveness of the exchange of information on criminal convictions a priority. ECRIS means that a decentralised information technology system has been established that has not changed the content of the existing criminal records databases of the individual Member States, but is merely designed to ensure and facilitate the exchange of information between the central authorities in charge of keeping the records. The framework decision stipulates that these central authorities of the Member States are obliged to notify the competent authority of the respective Member State of the criminal convictions entered into its criminal records committed on its territory by a national of another Member State, so that such foreign convictions can also be entered in the home records of the foreign national. The framework decision also contains provisions whereby at the request of the authorities of a Member State, any information which may be required can be transferred from the records of another Member State via the respective central authorities. The information is transmitted quickly and electronically; it is not possible, however, for a foreign central authority to gain direct electronic access (online) to the criminal records data of another Member State.

The framework decision stipulates that such cross-border information requests can be submitted for criminal proceedings and other official information purposes which are to be met by the records authorities of the Member State of origin in line with domestic law. As things currently stand, it is therefore already possible for ECRIS to be used for police proceedings relating to preventive measures to counter “foreign fighters”. To date however, ECRIS does not provide for any procedure for cooperation in relation to the central recording of convictions of third country nationals. As such, in the view of the Federal Government ECRIS still has the potential to be expanded.

7. What stance does the Federal Government adopt on the question of the extent to which ECRIS could be used proactively without reference to a particular case and to what extent could Europol play a role here?

On 7.

A possible “proactive” approach for the ECRIS system has been floated in discussions at European level. From the Federal Government’s point of view, however, it is still largely unclear what is meant by this. ECRIS itself is merely an information forum and has neither any data records of its own nor

staff nor analysis and information provision procedures of its own. Data records on criminal convictions which can be exchanged in the scope of ECRIS are held solely by the criminal records authorities of the Member States. To the extent that it is possible for the Federal Government to judge, the criminal records authorities of other Member States are not geared towards nor geared up to transferring data entered in the records “proactively” to other authorities without a relationship to a specific case either. Such ad-hoc alerts about dangerous individuals are far more likely to be transferred by the competent security agencies via the dedicated channels for this.

8. What knowledge does the Federal Government have of proposals or plans for an EU-wide standardisation of terrorism alert levels and what position has the Federal Government adopted on this?

On 8.

To the knowledge of the Federal Government, the EU Coordinator has repeatedly proposed to the Council that it consider a more standardised approach with regard to terrorism alert levels. The Federal Government does not usually adopt a coordinated position on every proposal made by the EU Coordinator unless these have been introduced into the formal decision-making processes of the Council, for instance by their inclusion in the Council conclusions.

During the course of an initiative by the Belgian Council Presidency in 2010 to bring about an exchange of information on terrorist alert levels in the EU Member States, the Federal Government adopted the stance that the initiative must not give rise to an obligation for EU Member States to introduce a system of alert levels. The Federal Republic of Germany does not have a system of levels of alert which categorises the situation into certain alert levels depending on the circumstances, instead the assessment of the level of potential danger, for instance with regard to Islamist terrorism, is coordinated in regular progress reports at the level of the federal security authorities at the Joint Counter-Terrorism Centre (GTAZ).

9. To what extent and with what outcome did further talks or other forms of cooperation take place after the “Ministerial Dinner” on the eve of the JHA Council on 8 October 2014 in Luxembourg with the providers who attended (Bundestag printed paper 18/3655)?

- a) In what way are the recommendations of the meeting now being put into practice?
- b) What knowledge does the Federal Government have of to what extent future cooperation with the providers will take place not on the basis of legislative changes from the point of view of the European Commission or the Council, but rather on the basis of self-regulation and what will this entail in the understanding of the Federal Government?

On 9.

a)

Since the cited meeting in Luxembourg there have been no further talks in this format. No decisions, agreements or recommendations were adopted in Luxembourg. As such, please refer to the answer of the Federal Government to the Minor Interpellation of the Left Party parliamentary group in Bundestag printed paper 18/3655 of 22 December 2014.

b)

The Federal Government has no information on such deliberations by the European Commission. At the JHA Council, the topic was discussed from various angles, whereby Germany advocated the approach of joint voluntary commitments by the major providers to remove terrorist content.

10. To the knowledge of the Federal Government, to what extent are Europol or federal authorities working on developing online reporting forms or other simplified procedures to report or delete web content?

a) What stance does the Federal Government adopt on the need for such procedures or bodies, and what shortcomings would be resolved as a result?

b) To what extent could Europol be entrusted with such tasks from the Federal Government's point of view?

On 10

In the field of combatting politically motivated crime, the Federal Government has no information on plans to introduce a fixed procedure for deleting web content. Content is usually deleted by the provider in question under their own responsibility on the basis of their terms and conditions of use. To report radical content on the Internet platform "YouTube", the "flagging" function provided there can be used, for instance.

a)

Simplified procedures for deleting web content would be something to be welcomed as a general principle.

What counts for the respective practices for deleting web content is, however, first and foremost, the different legal bases in the individual states in which the respective platform operators are based. The procedures described cannot directly change these legal foundations.

b)

The Federal Government is not floating any specific thoughts on Europol assuming these sorts of tasks.

11. What shortcomings exist in the view of the Federal Government regarding the cross-border extraction of IP addresses from international providers or competent authorities, and how could or should this be simplified?

On 11

Differences regarding the extraction of IP addresses from foreign providers arise from the general lack of minimum retention periods (abroad as well). If it is not permissible for German investigative authorities to directly approach foreign providers, then mutual legal assistance requests must be made which can be a lengthy process depending on the international legal foundations and domestic practice in the requested state. One possibility for dealing with this problem is the submission of "preservation requests" to the local police force in charge or the possibility provided by some providers to "freeze" data, provided this is legally permissible.

In terms of further developing the practice, in particular it would be worth considering having an exchange with the foreign providers relevant to German security agencies and the competent investigation agencies on practical challenges and possible solutions.

12. What knowledge does the Federal Government have regarding to what extent the European Commission or individual agencies have already taken action in this regard?

On 12.

The Federal Government has no information on this.

13. What knowledge does the Federal Government have regarding the development, implementation and current use of the Europol project entitled "Check the Web"?

a) Which phenomena are currently included in the information exchange in the scope of "Check the Web" and to what extent is an expansion to include "foreign fighters" or other forms of terrorism being discussed to the knowledge of the Federal Government (Bundestag printed paper 17/8961)?

b) In the view of the Federal Government, what shortcomings should an expansion of "Check the Web" to include other forms of terrorism aim to deal with?

On 13.

The project "Check the Web" (CtW) was initiated by Germany during the EU Council Presidency in 2007. Initially it was implemented as a project file, but then converted in December 2009 into an Analytical Work File –AWF. In the course of the redesign of the AWFs at Europol, the AWF CtW was converted into the Focal Point - FP CtW in the AWF Counter Terrorism - CT.

Technically, CtW is a web technology-based portal backed up by a database. All Member States have access rights as well as Switzerland and Australia, which are associated to the focal point as third countries. The portal offers the possibility to conduct searches in the CtW database for websites and statements by organisations/persons from the area of Islamist terror. The database is supplied with data by Europol from the results of its internet surveillance, and Member States can transfer data to Europol which is viewed there and placed in the database. The Federal Government has no specific information on the usage of the Focal Point by the participants.

a) and b)

The Focal Point CtW acts as an information portal for analysing web sites/announcements with radical Islamist content. The Federal Government currently has no knowledge of an expansion of the content Focal Point to include other phenomena.

14. What knowledge does the Federal Government have from Council working groups or other reports on the continuation, the implementation and the current use of the "Clean IT" initiative launched by five ministries of the interior from EU Member States (Bundestag printed paper 17/11238)?

a) What is the purpose of the project?

b) Who is now taking part in it?

c) To what extent was or is an expansion of "Clean IT" being considered by those involved or third parties?

On 14.

a) to c)

To our knowledge, the "Clean IT" project came to an end as planned with a final event on 30 January 2013 in Brussels.

15. What knowledge does the Federal Government have from Council working groups or other reports regarding the continuation, the implementation and current use of a project launched by Belgium entitled "Community Policing and prevention of radicalisation & terrorism" (CoPPRa) and what sub-working groups exist in relation to this (www.andrej-hunko.de/start/download/doc_view/131-beteiligung-der-landesregierung-nrw-an-eu-projekten-gegen-radikalisierung-oder-extremismus/)?

On 15.

The Federal Government is aware of the project initiated by Belgium, and as it understands also now completed, entitled "Community Policing and prevention of radicalisation & terrorism" (CoPPRa); it does not however, have any current information on the continuation, implementation and use of the project.

16. What knowledge does the Federal Government now have regarding those participating in an "EU Syria Strategic Communications Advisory Team" (SSCAT)?

On 16.

Participation in the "EU Syria Strategic Communications Advisory Team" (SSCAT) as well as use of its expertise and advice is open to all EU Member States. The advice components are provided by experts of the British Research, Information and Communications Unit (RICU).

17. In what specific way is a "network of authorities and experts from the Member States at European Level" to help "develop strategic communication campaigns and awareness campaigns on radicalisation and terrorism recruitment" in SSCAT?

On 17.

On the basis of regular meetings SSCAT is designed to provide a forum in which the EU Member States can compare notes on their best practice experiences in the field of strategic communication. These contacts should allow a network of authorities and experts from Member States to be established at European level. The experiences can feed into the advice provided by RICU for the EU Member States.

18. To the knowledge of the Federal Government, which Member States are participating with which institutions in the project established by the Dutch Ministry of Security and Justice entitled the "European Joint Initiative on Internet and Counterterrorism" (EJI-ICT) (Written Question 35 submitted by Member of the Bundestag Inge Höger in Bundestag printed paper 18/3519)?

19. To the knowledge of the Federal Government, to what extent does it form part of the duties of the EJI-ICT to maintain contacts with Internet providers and also to encourage them to make deletions in certain cases?

On 18. and 19.

The Federal Government has no information on which Member States and institutions are participating.

20. How exactly in the view of the Federal Government do the providers Twitter, Google, Microsoft and Facebook differ in their judgement of content glorifying violence in relation to the interpretation according to "German law or the German interpretation of decency, mores and morals" (Bundestag printed paper 18/3655)?

On 20.

The Federal Government has no information on the different internal assessments by the cited providers.

21. To what extent is the Federal Government of the opinion that an interpretation according to "German law or German interpretation of decency, mores and morals" would require more or less regulation or deletion measures on the Internet than an American interpretation of "decency, mores and morals"?

On 21.

To what extent an expression of opinion on social media is acceptable must always be judged on a specific individual case-by-case basis and according to the respective legislation in force.

22. As the Federal Government is not aware of any specific shortcomings for the scope of application of the German Basic Law in the existing practices of the providers of telemedia services in terms of blocking or deleting content glorifying violence unbidden by the authorities, to what extent do such shortcomings exist in the view of the Federal Government outside of the scope of application of the German Basic Law?

On 22.

The Federal Government has no knowledge of this.

23. To the knowledge of the Federal Government, to what extent is it correct that the introduction of "Ma3tch" technology is still being promoted at EU level, as described by the EU Counter-terrorism Coordinator (www.statewatch.org/news/2015/jan/eu-council-ct-ds-1035-15.pdf)?

- a) To what extent are there also deliberations at the Federal Criminal Police Office as to what extent and under what conditions German authorities could also participate in "Ma3tch"?
- b) What knowledge does the Federal Government have of the mandate or objectives of a feasibility study by Europol which is exploring in what way the "Ma3tch" technology could be used at Europol or authorities involved in Europol?
- c) Who is involved in carrying out the study and when is this supposed to be available?

On 23.

The Federal Government has no information on this.

a)

Please refer to the answer of the Federal Government to question 17 of the Minor Interpellation of the Left Party parliamentary group in Bundestag printed paper 18/2888 of 15 October 2014. The Federal Criminal Police Office (BKA) is currently reviewing whether and under what conditions this procedure can be used.

b) and c)

The Federal Government has no information on this.

24. What is the stance of the Federal Government on the adoption of an EU Directive on retention of telecommunications data and what steps has it taken in this regard since December 2014?

On 24.

In her government statement on 15 January 2015, the Federal Chancellor stated:

"The European Court of Justice and the Federal Constitutional Court have laid out the limits within which a regulation of minimum retention periods for communications data is permissible. In view of the conviction of the ministers of the interior at federal state and national level across party lines in Germany that we need minimum data retention time limits, we should urge that the revised EU guidelines announced by the European Commission be presented swiftly so that they can subsequently be translated into German law."

Representatives of the Federal Government have advocated this position at various times in discussions and consultations with representatives of the institutions of the European Union.

25. What knowledge does the Federal Government have of assertions, information or evidence presented in EU Council working groups, at the World Economic Forum in Davos or elsewhere of the claim asserted by Italy that "Islamic State" is involved in the departure of vessels carrying refugees or is profiting from this (Corriere della Sera on 24 January 2015)?

On 25.

The Federal Government has no information on this.

26. What knowledge does the Federal Government have of to what extent meetings have already taken place or are planned with the governments of Algeria, Egypt, Jordan, Lebanon, Morocco, Tunisia, Turkey, Iraq and Libya to decide on joint strategies or measures against "foreign fighters" and who else took part in them?

On 26.

Both bilaterally and in international bodies, the topic is discussed at a political level on a regular basis with the states concerned.

27. What key statements in the report compiled by the Dutch authorities with the participation of a further eight governments entitled "Quick Scan Insight into Terrorist Travel" does the Federal Government hold to be particularly noteworthy and what conclusions does it draw from the report (www.statewatch.org/news12015/jan/eu-2014-10-10-13971-report-implementation-ct-strategy.pdt)?

On 27.

The report compiled under the aegis of the Dutch authorities in 2013 entitled "Quick Scan Insight into Terrorist Travel", which Germany was also involved in, contains recommendations to prevent repeatedly detected departures of Islamists for Jihad territory. Independently of an evaluation of the individual recommendations contained in the report, it can be said that the Federal Government has taken measures which correspond to the recommendations from the report. These include, inter alia, cooperation with states of transit for terrorist travel movements, in particular with Turkey, and stepping up cooperation with the EU Member States. Furthermore, the legal foundations available at national level should be reviewed and optimised if necessary. The bill adopted by the Federal Cabinet on 14 January 2015 to amend the Act on Identity Cards to introduce a substitute identity card and to amend the Passport Act should be viewed against this backdrop as well, which is designed to create the legal basis for the denial and revocation of a person's identity card, the introduction of a substitute identity card and the legal grounds for declaring the invalidity of the documents in the event of grounds for denial of a passport under the Passport Act and the Identity Card Act and the legal regulation of immediate enforcement over measures under passport and identity card law.

Furthermore, the report notes that PNR is an important instrument in effectively combatting international terrorism. In particular due to the danger arising from returning or returned terrorist fighters, it is very much in the Federal Government's interests to have swift finalisation of the proposal for an EU PNR Directive.

The report also states that greater benefits should be leveraged from the EU systems. The "Focal Point Travellers" was established in the framework of Europol, which the Federal Government advocates be used systematically. The report recommended that SIS II be developed further. The Federal Government is reviewing the possibility of adding an offence requiring an alert and denying

the person the possibility to leave the EU to the SIS II Council Decision regarding persons wanted for arrests. This review is still under way.

28. Who was involved in compiling the report to the knowledge of the Federal Government?

On 28.

To the knowledge of the Federal Government, in addition to the Netherlands and Germany, Belgium, Denmark, France, Spain, Sweden and Great Britain were involved in compiling the report entitled "Quick Scan Insight into Terrorist Travel".

29. What numeric data has Europol since transmitted on the contributions to the Focal Point "Travellers" to the knowledge of the Federal Government and to what extent can conclusions be drawn from this on its usage?

On 29.

According to the latest information from Europol a total of 536 contributions on 2835 persons had been transmitted to the Focal Point "Travellers" up until 31 January 2015. From the Federal Government's point of view this does not enable any conclusions to be drawn regarding its usage.

30. Which non-EU states or other institutions have been associated since when with the Focal Point "Travellers" or what negotiations are under way on this and when is a decision to be taken in this regard?

On 30.

To the knowledge of the Federal Government, (status as in November 2014) currently, Australia, Norway and Switzerland are taking part as associated third countries in the Focal Point "Travel-lers". Serbia, Macedonia, Eurojust, Interpol and the "US Customs and Border Protection" (CBP) agency intend to participate as well. The Federal Government does not know when a decision can be expected on this.

31. What knowledge does the Federal Government have regarding with which EU institutions the US agencies ICE, Secret Service, Customs and Border Protection maintain a regular exchange of data?

a) What knowledge does the Federal Government have regarding the extent to which the US agencies ICE, Secret Service, Customs and Border Protection also desire access to Europol's data bases and what is its position on this?

b) What knowledge does the Federal Government have regarding which states recently raised objections to this and what did their concerns consist of?

On 31.

There is a regular exchange of data with Europol. The Federal Government has no further information going beyond this.

a)

The US "Immigration and Customs Enforcement" (ICE) agency is an associate to the Focal Points "Twins" (in the field of sexual abuse of children and minors) and "Copy" (in the field of copyright infringement). The US agencies "US Secret Services" (USSS) is an associate to the Focal Points "Asset Recovery" (in the field of asset recovery), "Cyborg" (in the field of Cybercrime), "Soya" (in the field of EUR counterfeiting) and "Terminal" (in the field of credit card fraud). The US "Customs and Border Protection" (CBP) agency currently aspires to become an associate to the Focal Point "Travellers" (in

the field of travelling terrorists) and "Checkpoint" (in the field of illegal im-migration). The Federal Government supports the CBP in this endeavour.

b)

The Federal Government is not aware of which Member States recently raised objections to this and where their concerns lay.

32. To the knowledge of the Federal Government, what is the difference between the Focal Point "Travellers" and the Focal Point "Hydra" ("Islamist Terror")?

On 32.

The Focal Point "Hydra" concerns the phenomenon of Islamist terror in general. With the Focal Point "Travellers" the focus is on individuals who are suspected of travelling across international borders to take part in terrorist activities and who may constitute a threat to the security of the Member States upon returning to the EU.