

Development of the German Federal Criminal Police Office 'Check the Web' project, which was originally launched to monitor the Internet, into a referral unit for unpleasant content

Minor Interpellation tabled by Bundestag Member Andrej Hunko and others and The Left parliamentary group.

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Preliminary remarks of the questioners:

The Europol 'Check the Web' project (Council document 8457/3/07) initiated by the German Federal Criminal Police Office (BKA) in 2007 stores comprehensive information on persons, objects and activities. Under 'Check the Web', Internet searches are carried out and suspicious postings are stored. Information is compiled on Islamist terrorism-related websites and announcements. Just two years later 'Check the Web' was transformed into a work file for analysis purposes. Meanwhile, it has become a comprehensive database with graphic front end to which all participating authorities are connected. Information is inserted by Europol and also by the participating states and enhanced with evaluations that other police authorities can then inspect and compare. Alongside Member State criminal police offices, Switzerland and Australia also take part as 'associated third countries'.

'Check the Web' is now to be developed into an 'EU Internet Referral Unit' (www.statewatch.org/news/2015/mar/eu-council-cosi-terrorism-riga-statement-followUp-6606-15.pdf). Accordingly, in future the unit will operate as the competent referral unit for monitoring the Internet and storing unpleasant content. By the end of May 2015 all Member States must name the police units that wish to work with the new Europol unit. In the case of Germany, this is likely to be a BKA department. As regards Internet crime, however, the Bavarian Land Criminal Police Office is also extremely active at European level. The new Europol unit to monitor and report unpleasant Internet content is then due to start running on 1 July 2015.

Europol is also to cooperate more closely with Internet providers. This is because the Internet 'is a major facilitator for radicalisation to terrorism.' The 'sheer volume' of such Internet content requires close coordination.

That is why the Council of the European Union wants not only to develop Europol's exchange of offensive or illegal content with 'relevant partners' but also to ensure that 'referrals can be done quickly, efficiently and effectively'. Europol will then support investigations into reported content 'by providing strategic analyses' and recommend operational measures, which include encouraging providers to delete content. That would, therefore, also require cooperation with the industry. We are not told to which sectors of private industry this relates, though presumably the Internet service providers are meant. Prior to their October 2014 meeting, the Ministers of the Interior of all EU Member States had met the Twitter, Google, Microsoft and Facebook Internet companies for an informal supper. The EU Commission was also invited. The object was to develop 'instruments and techniques' to combat 'terrorist online activity' (Bundestag Printed Paper 18/3236).

According to the Council document, the October 2014 informal meeting has now become a 'Forum with the Internet service providers community' that specifically contributes to the work of Europol. It is not clear, however, what kind of offensive or illegal content is actually meant. Indeed, in the case of videos of beheadings or other atrocities, the Internet providers have long since been endeavouring on their own initiative to identify such films as quickly as possible and to block access to them. The German Federal Government admitted not long ago that there were no concrete deficits within or outside the scope of the Basic Law in regard to the existing practice of telemedia service providers of

blocking or removing content that glorifies violence without being required to do so by the authorities (Bundestag Printed Paper 18/4035).

In any case, it is not possible to generalise procedures to facilitate the removal of unwanted content since all the EU countries have different legal provisions in this regard. Moreover, the individual providers follow different procedures for reporting and deleting unwanted content. All endeavours to cooperate with Google and others are, therefore, situated below the legislative level. In the questioners' view that creates a problem because it means that Europol is departing from its monitoring role. It turns the agency into a hotline for reporting unwanted content that is, where possible, to be removed rapidly. As recently as February 2014, the Federal Government stated in this connection that it had no information about plans to introduce a fixed procedure for the deletion of Internet content. Yet with the 'EU Internet Referral Unit', this is being introduced through the back door. It is not clear to what extent automated procedures are used for 'Internet monitoring', but Europol likes to advertise its data mining and mass data-processing capabilities online and in its glossy brochures.

The new work programme sets out strategic objectives such as incorporating 'future-forecasting and scenario techniques in analysis' (<http://www.statewatch.org/news/2015/mar/eu-council-cosi-terrorism-riga-statement-followUp-6606-15.pdf>). Hitherto, the BKA would not have been allowed to use techniques of this kind. By its own admission, the Federal Government does not know whether Europol is processing data provided by the BKA in a manner that is inadmissible in Germany (Bundestag Printed Paper 18/4035). In the questioners' view, however, this would conflict with data protection provisions. The Federal Government must, therefore, make up for this lack of knowledge and obtain the necessary information from Europol.

1. In what way does the BKA participate in 'Check the Web' and to what extent do German authorities play a lead role within it?

re 1.

Europol is solely responsible for the Focal Point 'Check the Web' (FP CtW). The Bundeskriminalamt (Federal Criminal Police Office, BKA) is Europol's national office for Germany (Article 2, paragraph 1(1) of the German Europol Law), acts in this capacity as Single Point of Contact (SpOC) with the FP CtW and also takes part in meetings. Furthermore, in the past the BKA has on several occasions sent Europol data (publications by terrorist organisations and persons from the Islamist-jihadist spectrum) for insertion in the CtW portal. The BKA participates as a user and does not play a lead role.

2. As far as the Federal Government knows, who proposed transforming the 'Check the Web' project initiated by the BKA into a work file for analysis purposes and what were the determining reasons for so doing?

re 2.

The idea of turning the project-related CtW file into an analysis work file came from Europol, at the time of the adoption of Council Decision 2009/371/JHA establishing Europol and the subsequently amended legal framework on data processing.

3. What kind of data (persons, objects, cases) does 'Check the Web' contain?

a) What data fields exist for the input of information into 'Check the Web'?

b) How many data are currently stored in 'Check the Web'?

re 3.

The CtW file contains structured information on videos, audio files, texts and statements published on the Internet. The organisations and individuals associated with the publications are linked with the stored publications and contain further background information. The evaluations of individual publications available in the Member States can also be supplied to CtW.

The database also contains information on relevant individuals, organisations, media centres and internet sites in the field of religiously-motivated terrorism.

re 3. a)

The opening order provides for the storage of the data listed in Article 14(1) of Council Decision 2009/371/JHA establishing Europol, in conjunction with Article 6(2)(a),(b 1), (c 4), (d), (e 1), (f 1-4), (g), (h), (j) and (k), and Article 6(3) and (4) of Decision 2009/9361/JHA.

re 3. b)

According to European information dating from 16 March 2015 the CtW portal contains more than 10,000 electronic documents and individuals. The Federal Government has no information beyond that.

4. As far as the Federal Government knows, when did Switzerland and Australia, or any other countries, apply to join as 'associated third countries' and what reasons did their governments give for doing so?

re 4.

As far as the Federal Government knows, Australia and Switzerland became associated third countries of the FP CtW on 25 July 2013. The Federal Government has no details about the reasons for their applications to Europol. In this connection, the opening order states that transnational terrorism led by, linked to or inspired by Al Qaida presents a constant and growing threat to Australia and Switzerland. It points out that Al Qaida leaders and ideologists name Australia and Switzerland as legitimate targets on a regular basis.

5. What position has the Federal Government taken in the past on the expansion of Europol's capacity to report Internet content?

re 5.

The Federal Government welcomes the enhancement and expansion of Europol's capacity to report illegal extremist and terrorist Internet content on the basis of the legislation in force and respect for fundamental rights.

6. As far as the Federal Government knows, who submitted the proposal to develop 'Check the Web' into an 'EU Internet Referral Unit'?

a) What was the Federal Government's position on transforming the 'Check the Web' project into an 'EU Internet Referral Unit'?

b) What exactly is the difference with the 'Check the Web' activities to date?

re 6.

As far as the Federal Government knows, it was mainly the EU Counter-Terrorism Coordinator who submitted the proposal in January 2015. In its plans to set up the 'EU Internet Referral Unit' Europol will take account of and develop the existing expertise available in the FP CtW and the 'European Cyber Crime Centre'. There are no plans to transform the FP CtW into the EU Internet Referral Unit.

re 6. a)

Please refer to the answer to Question 5. See also the answer to Question 6.

re 6. b)

The organisation and working methods of the 'EU Internet Referral Unit' are still under discussion in the EU bodies. At this point, therefore, it is not yet certain exactly how it will differ from CtW.

7. Which police authorities will the Federal Government appoint to cooperate with 'Check the Web' (please also name the departments)?

a) What necessary resources and staff are being allocated and seconded to the national contact points?

b) What will this cost?

c) Does the Federal Government know to what extent Europol will also have to obtain resources or staff and what this will cost?

re 7.

Please refer to the answer to Question 6. See also the answer to Question 1.

re 7. a) to c)

Please refer to the answer to Question 6. b). The necessary resources and staff have not yet been allocated.

8. What is the Federal Government's view as to whether in future Europol should conduct risk analyses based on its Internet monitoring via 'Check the Web'?

re 8.

The Federal Government has no current information as to whether Europol intends to proceed in this manner. In general, the FP CtW portal is used as a work file set up for the purposes of analysis, defined as the assembly, processing or use of data with the aim of assisting criminal investigations (first sentence of Article 14 (2) of Council Decision 2009/371/JHA) establishing Europol.

9. What is the Federal Government's view as to whether Europol should in future make recommendations on operational measures and in its view what does that mean?

re 9.

At present, the Federal Government has no knowledge of any such Europol project. In general, one of Europol's principal tasks is to ask the competent authorities of the Member States concerned to initiate, conduct or coordinate investigations and to suggest the setting up of joint investigation teams in specific case (Article 5(1) (d) in conjunction with Articles 6 and 7 of Council Decision 2009/371/JHA establishing Europol).

10. What is the Federal Government's view on the extent to which Europol should cooperate more closely with Internet providers or other partners under 'Check the Web'?

re 10.

To date Europol does not cooperate with Internet providers or other partners in the framework of FP CtW. That is not necessary under the current CtW approach. See also the answer to Question 13.

11. In the Federal Government's view, which Internet providers or other partners are involved in practice?

re 11.

Please refer to the answer to Question 10.

12. Since the Federal Government has hitherto taken the view that there are no concrete deficits within or outside the scope of the Basic Law as regards the existing practice of telemedia service providers of blocking or deleting content that glorifies violence without being required to do so by the authorities (Bundestag Printed paper 18/4035), to what extent does the Federal Government believe that Europol needs to cooperate with Internet providers or other partners in the framework of 'Check the Web' at all?

re 12.

Please refer to the answer to Question 10. As regards the wording of the question, it should be noted that in the case of practices 'outside the scope of the Basic Law' the admissibility of an expression of opinion in telemedia service offers must always be measured by the specific case and according to the applicable legislation. The Federal Government does not, therefore, have any overview of this kind on infringements in other jurisdictions.

13. What is the Federal Government's view on the extent to which Europol should pass on terrorist or extremist online content and information found under 'Check the Web' to Internet providers or other partners?

a) What is the purpose of this?

b) In the view of the Federal Government, to what extent does that mean that Europol is assuming the function of a hotline for reporting content that should where possible be rapidly removed, given that the Federal Government stated as recently as February 2015 that it had no information on plans to introduce a fixed procedure for deleting Internet content (Bundestag Printed Paper 18/4035)?

re 13. and 13. a) and b).

Please refer to the answer to Question 10 in relation to CtW. See also the answer to Question 6. b).

14. As far as the Federal Government knows, is it still the case that since the informal supper with representatives of the Twitter, Google, Microsoft and Facebook Internet companies on the eve of the meeting of the EU Justice and Home Affairs Council in Luxembourg on 8 October 2014 there have been no further discussions or other forms of cooperation with the service providers represented there in this format (Bundestag Printed Papers 18/3655, 18/4035)?

re 14.

As far as the Federal Government knows, there have been no further discussions in this format.

15. As far as the Federal Government knows, what is meant by the term 'Forum with the Internet service providers community' (www.statewatch.org/news/2015/mar/eu-council-cosi-terrorism-riga-statement-followUp-6606-15.pdf) and how did this forum come into being?

re 15.

The forum in question is not known to the Federal Government. According to statements by Europol on 16 March 2015 it is an EU Commission forum.

16. *As far as the Federal Government knows, when was the 'Forum with the Internet service providers community' founded and in what form was the German Federal Ministry of the Interior involved in it?*

17. *As far as the Federal Government knows, who belongs to the 'Forum with the Internet service providers community'?*

18. *What is the task or objective of the 'Forum with the Internet service providers community'?*

re 16. to 18.

Please refer to the answer to Question 15.

19. *In the view of the Federal Government, in what way should the EU cooperate with the 'Forum with the Internet service providers community'?*

re 19.

According to Europol statements of 16 March 2015, the Commission's Forum with the Internet services providers community will discuss a common approach to means of improving the reporting of websites that breach the individual providers' terms of use. Other than that, the Federal Government has no information.

20. *To what extent is the Federal Government prepared to find out whether Europol is using data mining and mass data-processing capabilities, which the BKA would be prohibited from using in Germany, for Internet monitoring or other automated data-processing procedures (Bundestag Printed Paper 18/4035)?*

re 20.

The Federal Government has no indications that Europol could set up procedures whose use would be inadmissible in Germany. It therefore sees no need to ask Europol which applications are being used for the concrete evaluation of individual requests. Please refer to the Federal Government's answer to Question 5 of the Minor Interpellation tabled by The Left parliamentary group in Bundestag Printed Paper 18/4193 of 4 March 2015.

21. *To what extent is the Federal Government in a position to find out whether Europol is using data mining and mass data-processing capabilities, which the BKA would be prohibited from using in Germany, for internet monitoring or other automated data-processing procedures (Bundestag Printed Paper 18/4035)?*

re 21.

Please refer to the answer to Question 20. In any case, a request to that effect would have to be addressed to Europol.

22. *As far as the Federal Government knows, when could the 'EU Internet Referral Unit' come into operation?*

re 22.

As far as the Federal Government knows, the EU Internet Referral Unit is to come into operation on 1 July 2015.