

Brussels, 3 December 2015
(OR. en)

14911/15

LIMITE

**JAI 966
COSI 182
COTER 159
COPS 387
ENFOPOL 400
ENFOCUSTOM 140
ASIM 166
CATS 134**

NOTE

From: Presidency
To: Council
Subject: Information sharing on Counter-Terrorism

At the Council lunch on 4 December 2015 Ministers are invited to discuss the following issues regarding Member States' use of information sharing mechanisms.

Information sharing mechanisms of potential Counter Terrorism (CT) use are offered by Europol, Eurojust, Prüm, SIS II, Eurodac and Interpol.

On a number of occasions, the Council has called on Member States (MS) to improve the quantity and quality of information they share on terrorist suspects, most recently in the Council Conclusions (JHA) of 20 November 2015. The Paris attacks highlighted gaps in information sharing and checks at external borders. The informal lunch discussion in restricted format is an opportunity to exchange views on how MSs can make best use of the various information sharing mechanisms.

A. Are databases populated enough?

The data suggest that there remains a disparity between the actual threat posed to some MS and the amount of information that is shared and that there is thus a need to improve efforts in this area. For example by November 2015:

- the number of SIS II alerts entered under Art. 36(3) remains generally very low and several MS have not used this option at all; the new possibility for immediate reporting under Art. 36(2) and Art. 36(3) introduced in February 2015 is therefore under-used;
- 50,45 % of all contributions to Focal Point (FP) Travellers originate from just five MS and one associated third country. Only 2081 confirmed foreign terrorist fighters have been entered into FP Travellers;
- half of all MS have still not used the Europol Information System (EIS) for counter-terrorism purposes and only 1595 foreign terrorist fighters have been registered;
- in only half of the MS the counter terrorism authorities are connected to the Secure Information Exchange Network Application (SIENA) hosted by Europol;
- 109 cases were opened in 2015 at Eurojust in relation to information exchange on terrorist offences - 17 on court results and 92 on ongoing prosecutions;
- With regard to Prüm, implementation remains patchy and full connectivity among MS does not exist. Many MS are connected to less than half and some are not connected at all although legally bound.

B. Are databases consulted enough?

Information on the percentage of persons checked against the relevant databases on all EU external borders is available only for some MS, and it is unsatisfactory: between 1,5 and 34 % of persons enjoying the right to free movement have been checked (Switzerland checks 100 %).

Pre-conditions for systematic checks are (1) instructions to border guards to check all relevant SIS II and Interpol databases with regard to all travelers and (2) technology, in particular with regard to SLTD: electronic connection of all border posts, electronic update, automated screenings of passports. At least 10 % of MS and Schengen partners still do not have an electronic connection to all external border crossings (air, land and sea). At least 7 MS and Schengen partners do not use automatic screening and 6 are still manually updating the SLTD database.

C. The way ahead

With a view to implementing MS' commitment to using the relevant information sharing tools in a more systematic manner, the Presidency suggests the following:

1. Feeding of the databases

Member States will inform COSI of the measures taken or envisaged to increase the information sharing related to counter-terrorism via Europol, Eurojust and SIS II¹.

¹ Council Conclusions of 20 November 2015: "The Council decides to step up law enforcement cooperation:

- Member States will ensure that national authorities enter systematically data on suspected foreign terrorist fighters into the SIS II, in particular under Article 36.3, carry out awareness raising and training on the use of the SIS and define a common approach to the use of the SIS II data relating to foreign fighters,
- Member States will make maximum use of these capabilities to improve the overall level of information exchange between CT authorities in the EU. Member States will ensure that the relevant national authorities significantly increase their contributions to Focal Point Traveller at Europol to reflect the threat and connect to relevant Europol information exchange systems."

2. Systematic checks of the relevant databases at external borders

- a) The Commission is invited to:
- develop, based on a detailed gap analysis, suggestions with timetables and deadlines, including financial support to upgrade technology, to improve Member States' capabilities to carry out systematic checks of the relevant databases at external borders as soon as possible²,
 - present as soon as possible statistics on the percentage of checks of the relevant databases with regard to persons crossing the external borders and provide regular updates.
- b) Member States will inform COSI of the measures taken or envisaged to carry out the necessary systematic checks required by the Council Conclusions³.
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² Council Conclusions of 20 November 2015: "on the basis of a quick identification of urgent needs and possible solutions to be communicated by the Commission before the end of 2015, upgrade the Schengen Member States' border control systems (electronic connection to the relevant Interpol databases at all external border crossing points, automatic screening of travel documents) by March 2016"

³ "Member States undertake to implement immediately the necessary systematic and coordinated checks at external borders, including on individuals enjoying the right of free movement"