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LIMITE

**FRONT 14
JAI 15
COSI 1
ENFOPOL 9
COMIX 16**

NOTE

From: Presidency
To: Delegations
Subject: Presidency activity AMBERLIGHT 2015

INTRODUCTION

Continuing with the tradition of previous activities held during the previous Presidencies of the Council of the European Union, it is planned to organise and perform the Presidency activity "AMBERLIGHT 2015" on the basis of the guidelines set out in the Guide for Joint Police Operations – JPOs (16825/10 ENFOPOL 343 JAI 995 COSI 76).

OBJECTIVES

In order to avoid imposing sanctions (in the field of migration), third-country nationals often try to leave the European Union through another Member State of the European Union or a Schengen Associated Country (hereinafter 'Member State'), where the legal responsibility and sanctions for the violation (in the field of migration) in another Member State is not prescribed by law. Usually in such cases, a Member State should react only within its national competence (for example: cases of overstaying).

The aim of the activity "AMBERLIGHT 2015" is to move towards intensified border checks of participating Member States in order to step up action in detecting such cases, mutual consultations, collecting and analysing information on third-country nationals (and in particular at the external air borders upon exit of third country nationals), and who have not complied with the duration of residence and to prepare information which will serve as a basis for discussion on the possible implementation of uniform sanctions in overstay cases (the importance of the issue will increase further as of the implementation of the Entry Exit System). At the same time, in order to support the Working Party on Frontiers/False documents, it is planned to collect information on cases when third country nationals are travelling with forged documents - especially in the case of impostors (analysis will be used in respect of the initiative of the Working Party on Frontiers/False documents).

FRONTEX collects information on a monthly basis on the number of third-country nationals who have been detected by Member State authorities while not fulfilling, or no longer fulfilling, the conditions for stay or residence in the Member State during the reference month, whether they were detected inland or while trying to exit the territory. The data is further broken down by 'Detections of illegal stay inland', including persons who were detected for illegally crossing internal borders, and detections on exit, either at border crossing points (BCPs) or between BCPs. This definition includes third-country nationals who are not in the possession of a valid visa, residence permit, travel document etc. or being in breach with a decision to leave the country, as well as third-country nationals who initially entered legally but overstayed their permission to stay. However, the data collection system does not include a breakdown for the reasons for staying illegally, due to the fact that this information is not available in most Member States. As of January 2015, it will be possible for Member States to report this data within FRAN broken down by illegal or legal entry (that is indicating possible overstay or other breach of the conditions for stay or residence).

FRONTEX collects the data on the duration of illegal stay within the intra-Schengen data collection scheme, but vast majority of Member States are not able to provide this data.

Usually third-country nationals try to hide their length of stay by trying to touch/modify the stamps in their passports. Within the European Document Fraud data collection scheme FRONTEX collects data on all travel documents including stamps and the modus operandi referred to in the document is well recorded and analysed in reports. The data breakdown includes besides the nationality of the stamp, the nationality of the person using the travel document, the route, the BCP and the type of fraud (how the stamp was altered). This data exists since 2012.

FRONTEX does not know whether third-country national depart from the Member States where they overstayed or from another one in order to conceal the violation. Furthermore, FRONTEX does not know which Member States' visas are mostly detected in overstay cases and does not collect data on profile of overstayers.

IMPLEMENTATION

How to achieve the objectives of the activity?

Collecting the information provided by Member States, regarding the incidents on overstay and use of false documents, which are detected at air borders when third country nationals are departing from the territory of the Member State.

No personal data will be collected within the activity.

Participants in the activity:

The activity is to be assigned to air borders of Member States and Schengen associated countries (with the possibility of expanding it also to sea and land borders at the request of the majority of Member States).

All Member States and Schengen associated countries are welcomed to participate in the activity.

The period of the activity:

Taking into account risk analysis, it is foreseen that the highest number of departing third-country nationals from Member States would be the Easter period (in 2015 Western Christian holidays will be in the period from 3-6 April, but the Orthodox holidays will be from 10-13 April). It is therefore planned to perform the activity in the period from 1-14 April 2015. Optionally, the activity could take place from 18 to 30 April, when the number of passengers increases, as it coincides with the beginning of the holiday period and “long holidays”.

The management and coordination:

The activity will be coordinated by the Latvian National Coordination Centre (The State Border Guard). The activity will be implemented with the support and advice from FRONTEX, in the terms that will be agreed in a later stage..

Reporting during the activity:

Participating Member States will be asked to collect the following information:

1. Detection details: date, time and place of detection;
2. Information on the third country national: nationality, gender, age and the duration of illegal stay in Member States (up to one week, up to one month, one year or longer);
3. Modus operandi: third-country nationals try to hide the exceeded duration of residence by using false travel documents, false/falsified travel documents seized;
4. Routes: third-country nationals depart from Member State, where they exceeded the duration of residence or they try to depart from another Member State with the aim of concealing the violation;
5. Further procedure in Member States, and sanctions imposed.

As information gained and collected during the activity is within the FRONTEX mandate, in cooperation with FRONTEX the possibility to use JORA for reporting during the activity will be created. FRONTEX will provide support in the development of a template to collect information, in the information exchange and with risk analysis, in the terms that will be agreed with the Agency.

Follow-up:

The results, conclusions and final report of the activity will be presented to the Working Party on Frontiers and shared with Member States.

Delegations are kindly requested to provide their opinion (at the working group meeting or by 6 February 2015) on the following issues:

1. Are the objective and topic in line with Member State interests?
2. Is it necessary to set additional objectives?
3. Is it appropriate to expand the implementation of the activity to the sea and land borders?
4. Do you agree with proposed timing of the activity?
5. Do you agree to use FRONTEX JORA system for reporting during the activity?

If so, please provide the contact details for the further exchange of information.

Contact details: FRONTIERS WP Team: Frontiers2015@rs.gov.lv