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NOTE

From: Presidency
To: Delegations

Subject: Information exchange between counter-terrorism authorities and immigration and asylum authorities – Discussion paper

1. INTRODUCTION

In June 2022, the Council adopted conclusions entitled ‘Protecting Europeans from terrorism: achievements and next steps’¹. These Council conclusions advocate a better exchange of administrative information on people who have applied for international protection and who may pose a terrorist threat, both at national level and between Member States, while protecting the fundamental rights and the personal data of the individuals concerned.

¹ 9997/22, as agreed by the Council on 9 June 2022.

The Council conclusions invite Member States *‘to encourage cooperation at national and European level between:*

- *immigration and asylum authorities;*
- *counter-terrorism authorities;*
- *counter-terrorism and migration and asylum authorities at the national level*

in accordance with their respective competences and respecting that national security remains the sole responsibility of each Member State, in order to improve CT authorities’ knowledge of the timing and state of progress of applications for international protection lodged by individuals posing a terrorist threat and thus to enable appropriate measures to be taken against them.’

Under the French Presidency of the European Union, the Terrorism Working Party (TWP) also discussed concrete steps to strengthen the exchange of relevant information between investigative services and migration authorities².

The security concerns go beyond the mere scope of applicants for international protection, as they also cover other people who apply for the legal right to stay in Europe. It is important to gain a full administrative picture of any person who intends to stay on European territory, whether for the short term or long term, if there are doubts about whether they represent a threat.

There is also a need to go beyond this stage of control upon entry and address the return of unlawful migrants, ensuring that the efficient and swift return of people who do not or no longer have a right to stay and who represent a security threat is indeed at the top of the European agenda. In her letters ahead of the European Council meetings in October and December 2023, the President of the European Commission called for an enhanced information exchange and, within the framework of the roadmap, for targeted return actions led by the Return Coordinator to prioritise the return of those who may pose a security threat.

² 6247/22 – Amélioration des transmissions d’informations entre administrations dans le suivi des personnes représentant une menace terroriste / Improving the transmission of information between administrations in the follow-up of persons representing a terrorist threat.

Against this background, the Presidency deems it necessary to extend the scope of the discussions on information exchange between counter-terrorism authorities, on the one hand, and immigration and asylum authorities, on the other hand, to also cover information regarding individuals who do not or no longer have a right to stay and who pose a security threat.

2. PROPOSALS FROM THE BELGIAN PRESIDENCY

In order to implement the recommendations of the Council conclusions, the Presidency would like to work on/along three axes. Specifically, it is proposed to:

- map out how cooperation and information exchange between immigration and asylum authorities and counter-terrorism authorities in each Member State is organised (existing arrangements, procedures, working structures, possible consultation mechanisms, etc. within Member States);
- identify possible good practices in this area;
- identify central contact points within the immigration and asylum authorities to further facilitate international cooperation and information exchange between Member States.

The overview document containing the arrangements of the different Member States, the good practices and the contact points which the Presidency intends to establish can be classified if deemed necessary.

3. TOWARDS A NETWORK OF CONTACT POINTS – OBJECTIVES AND PRECONDITIONS

- It is proposed to establish central contact points within the immigration and asylum authorities in each Member State.
- The aim is to facilitate, accelerate and strengthen the exchange of non-classified information by the competent authorities of the Member States on foreigners posing a terrorist threat or known for being radicalised.

- The exchange of information should concern any foreigner involved in a migratory procedure, be they applicants for international protection, people who do not or no longer have the right to stay or even people who apply for legal status.
- The contact points may share relevant information bilaterally, within the framework of their competences.
- The division of competences and cooperation between immigration and asylum authorities and counter-terrorism authorities at national level is not affected.
- The European exchange of information takes place exclusively between immigration and asylum authorities, on the one hand, and counter-terrorism authorities, on the other. It goes without saying that there can be no international exchange of information between these different bodies.
- Contact points within the immigration and asylum authorities only exchange information about the administrative situation of foreigners once they have been informed by the counter-terrorism authorities that they could pose a threat. Administrative information must be understood here as the identity of the foreigner involved, as well as information related to their administrative situation. The purpose is not to transfer information from counter-terrorism authorities.
- The European exchange of relevant information takes place based on the possibilities and limitations of national and European law, by which the Member States are bound, including the rules on the protection of personal data.
- Use will be made of the existing systems and channels for the exchange of information available to the relevant authorities within the Member States.
- Further working arrangements on the exchange of information may be developed at bilateral level.
- An overview of the contact points and their contact details may be classified.
- Further arrangements must/should be made to keep the overview up to date and evaluate cooperation between the authorities.

4. QUESTIONS FOR DISCUSSION

- *How is the cooperation and exchange of information between immigration and asylum authorities and counter-terrorism authorities organised in your Member State? Are there specific procedures, working structures or consultation mechanisms in place for this?*
 - *Are there any good practices in your Member State within this domain that you would like to share?*
 - *Can you identify central contact points to further optimise the exchange of relevant information within your immigration and asylum authorities?*
 - *Do you have other proposals to strengthen the exchange of information?*
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