Council of the European Union

NOTE

From:	Presidency
To:	Standing Committee on Internal Security
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Subject:	Draft Council Conclusions recommending security checks in case of irregular migration

Following several terrorist attacks where the perpetrators were linked to irregular migratory movements, Member States should reflect on improving the detection of those who want to indiscriminately inflict harm to our communities and undermine our European values. While stressing that those opting for irregular movements are often eligible for international protection, Member States have a collective responsibility to protect our communities and those seeking protection themselves by deterring and preventing the entry of persons who are a threat to public security. When faced with hundreds, if not thousands, of arrivals and/or rescues per day, Member State authorities are confronted with complex security challenges. Currently it is up to Member States to decide not only when to perform security checks but also which national or European databases to check, as there is no common approach between the Member States in this field. The effectiveness of cross-checking both regular and irregular migrants against security databases depends to a large extent on the availability of biometrics. Illegal border-crossings are often undocumented, which means that it is impossible to run a check against any security database unless biometrics are utilised.

This topic was first discussed during the informal JHA meeting in Valletta on 26 January 2017. Further to the discussion at the COSI meeting on 14 March 2017, the existing practices regarding cross-checking of irregular migrants who are apprehended within the EU were mapped.

The results of the mapping exercise shows that :

–   apart from the Europol Information System (EIS), most databases are known amongst the law enforcement community and consulted.

–   Member States recommend to consult all databases available.

–   the Europol Information System is not used at its full potential.

–   irregular migrants are fingerprinted according to the regulations in place.

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Draft Council conclusions recommending security checks in the case of irregular migration

THE COUNCIL OF THE EUROPEAN UNION

RECALLING that since 2015 several terrorist attacks in the European Union were perpetrated by individuals linked to irregular migratory movements,

RECALLING that the carrying out of checks at the external borders remains one of the main safeguards of the area without internal border control and significantly contributes to guaranteeing the long-term security of the Union and its citizens. Such checks are carried out in the interest of all Member States. One of the purposes of such checks is to prevent any threat to the internal security and public policy of the Member States, irrespective of the origin of such threat, including where such a threat derives from Union citizens,

RECALLING the recent amendment to the Schengen Borders Code as regards the reinforcement of checks against relevant databases at external borders,[1] which obliges Member States to check systematically persons against relevant databases at external borders,

BEARING IN MIND that Member States must ensure that their competent authorities have access at external border crossing points to the relevant national and international databases, including the Schengen Information System (SIS) and Interpol's Stolen and Lost Travel Documents ('SLTD') database,

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[1]   Regulation (EU) 2017/458 of the European Parliament and of the Council of 15 March 2017 amending Regulation (EU) 2016/399 as regards the reinforcement of checks against relevant databases at external borders, OJ 18.3.2017, L 74, 1.

AWARE that checks at the external borders are a pivotal security measure,

REFERRING TO the Commission recommendation on proportionate police checks and police cooperation in the Schengen area[2], which recognises that intensifying police checks across the entire territory of the Member States is an effective tool to remedy the threats to public policy or internal security,

HIGHLIGHTING that security checks should be carried out in accordance with national law and with rules relating to the use of the databases, be in full compliance with Union law, including the Charter of Fundamental Rights of the European Union ('the Charter'),

HIGHLIGHTING the importance of setting best practices in terms of security checks of irregular migrants,

CONVINCED OF THE NEED to ensure that databases that are relevant in external border controls are checked in the case of security checks carried out by the police across the territory of Member States,

UNDERLINING that Member States should, in their own interest and in the interests of other Member States, enter data into the Union databases. They should also ensure that the data are accurate and up-to-date,

STRESSING the need to feed databases and increase the feed and the use of biometric data,

CALLING on Member States and Union agencies within the remit of their mandates to actively commit to run security checks against relevant databases,

WELCOMING the work achieved in the High Level Expert Group on interoperability,

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[2] ST 8899/17.

HIGHLIGHTING the importance of training and awareness raising regarding the national, European and international databases in Member States,

CONSIDERING that the security checks performed in the territory of the Member States against the Union security databases include those covered by the instruments related to the implementation, application and the development of the Schengen acquis, the Mixed Committee should be able to address these matters in order to implement the following recommendations in the Schengen area,

RECOMMENDS that Member States in exercising their prerogatives with regard to the maintenance of law and order and the safeguarding of internal security in accordance with national and European law, when faced with irregular migrants, perform checks against the following databases in accordance with the rules relating to these databases:

a)   at national level,

   –   investigation databases fed and used competent authorities;

   –   national Automatic Fingerprint Identification System (AFIS);

b)   at European and international level,

   –   Schengen Information System (SIS)

   –   where relevant, the Europol Information System (EIS)

   –   INTERPOL (I-24/7 network) and more specifically :

   •   Nominal Data,

   •   Stolen and Lost Travel Documents (SLTD),

   •   Foreign Terrorist Fighters (FTF),

   •   automatic fingerprint identification system (AFIS),

   •   Travel Documents Associated With Notices (TDAWN).