NOTE

From: Presidency
To: DAPIX: Friends of Presidency on interoperability of EU information systems

Subject: Access to central EU systems for borders and security

In the context of negotiations on the Entry/Exit System in the Council, on 2 March 2017 the Commission was called upon to propose a comprehensive framework for law enforcement access to the various databases in the area of justice and home affairs, ‘with a view to greater simplification, consistency, effectiveness and attention to operational needs’.

Taking this into account, the High Level Expert Group on information systems and interoperability considered various aspects of law enforcement access and proposed the following recommendations:

- The Commission should explore a new law enforcement access approach based on differentiating between: (i) identification and investigation, and (ii) normal processes and emergency situations.
- When the purpose is identification of a suspect, perpetrator or victim of a crime, the systems should be swiftly accessible without prior authorisation and in one search using, where possible, alphanumeric identity data, facial images or fingerprints. The queries should be logged and responses from the systems should in the first instance be provided on a hit/no-hit basis only.

- Only in case of actual hits should access to system data be necessary. This access should continue to require, except in emergency situations and under clearly defined conditions, *ex ante* verification and authorisation in accordance with the respective legal bases of the systems.

- Requests for investigations should continue to require, except in emergency situations and under clearly defined conditions, *ex ante* verification and authorisation. This should immediately lead to full access to all relevant systems and should not be subject to a cascade procedure.

- The co-legislators should examine, in the context of ongoing negotiations of relevant proposals, the possibility of granting direct access in emergency situations, under clearly defined conditions, as already proposed in the Eurodac proposal.

- The legal aspects of the above approach should be further assessed as a priority.

In its Conclusions on the way forward to improve information exchange and ensure the interoperability of EU information systems of 8 June 2017, the Council called on the Commission, as regards access to EU information systems, "to explore options as proposed by the High-Level Expert Group for achieving greater simplification, consistency, effectiveness and attention to operational needs, and to make corresponding legislative proposals providing a necessary framework to facilitate such access in compliance with data protection principles, and present it for discussion at the Council in early 2018".

This topic was further discussed on 20-21 July 2017 at the informal joint meeting of COSI-CATS in Tallinn. Following this discussion, the Commission Services studied the issue of access to various EU large-scale IT systems in a systematic manner trying to identify various information gaps. The result of this examination is outlined in the table set out in the Annex to this note.
The Presidency intends to bring this discussion forward on the basis of the overview of current conditions and possibilities for access to central EU systems for borders and security set out in the Annex and in view of contributing to the upcoming legislative proposal on interoperability, which, in line with the recommendations of the High-Level Expert Group, will aim at creating the European Search Portal (ESP), the shared Biometric Matching Service (sBMS) and the Common Identity Repository (CIR). Member States are therefore invited to examine the table set out in the Annex and provide answers to the questions raised below. If available, the replies could be complemented with relevant statistics.

As regards access to EU systems for identification purposes, it is currently possible to access most systems in the context of border controls and migration management (no specific restrictions, the person to be identified is present) but not in the context of police checks (for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties). The table summarises what information could become accessible through the ESP, the sBMS and the CIR for the respective purposes of access, without changing any of the existing access rights. The table shows why the ESP and sBMS will need to be configured with great care: depending on the purpose of access (and the specific user) certain data sets can be accessed and certain actions can be taken. The introduction of these three innovations would as such not enlarge access rights, but would ensure that queries are done in a systematic, seamless, reliable and fast way. The introduction of ESP, sBMS and notably CIR would also help fighting identity fraud. The necessity of notably the CIR will need to be demonstrated against this background. This facilitation and systemisation and well as enhanced possibilities to fight identity fraud is a major added value of enhanced interoperability.

Questions to Member States:

1) Considering the above possibilities offered by the interoperability of EU information systems, would you agree that in the context of the interoperability proposal the existing access rights for identification purposes should not be extended?

2) If you consider that existing access rights are too limited, how should they be changed?

3) For what purposes in particular do you see the added value of ESP and sBMS and CIR?
4) Looking at SIS, VIS and Eurodac, do you have examples of detected multiple identities? More generally, looking at all information systems holding biometric information, can you provide figures or estimates of the number of cases of identity fraud?

5) As regards law enforcement access to the systems for investigation purposes in the context of prevention, detection and investigation of terrorism and serious crime, currently different safeguards apply and cascading is required. Would you agree that the conditions for such law enforcement access should be harmonised in all instruments concerning EU information systems? If so, could EES be used as a model?

6) Can you provide examples of how the current cascade system has prevented authorities from accessing necessary information?
# Access to Central EU Systems for Borders and Security - Current Situation

**Schengen Information System**  
Both for EU and third country nationals  
Primary objective: both border management and law enforcement

<table>
<thead>
<tr>
<th><em><em>SIS (new</em>)</em>*</th>
<th><strong>VIS</strong></th>
<th><em><em>EURODAC (new</em>)</em>*</th>
<th><strong>EES</strong></th>
<th><strong>ETIAS (proposal)</strong></th>
<th><strong>ECRIS-TCN (proposal)</strong></th>
</tr>
</thead>
</table>
| - Biographic data  
- Passport/ID card details  
- Fingerprints  
- Palm prints*  
- Photographs  
- Facial images* | - Biographic data  
- Passport details  
- Fingerprints (10)  
- Facial images  
- Visa status | - Biographic data*  
- Passport/ID card details*  
(where available)  
- Fingerprints (10)  
- Facial images* | - Biographic data  
- Passport details  
- Fingerprints (4)  
- Facial images  
- IP address | - Biographic data  
- Fingerprints (10)  
- Facial images  | - Biographic data  
- Fingerprints (10)  
- Facial images  |

**Identity data recorded in system**
- Refusal of Entry and stay  
- European Arrest warrant  
- Missing persons/children at risk of parental abduction  
- Requested to assist in judicial criminal procedure  
- Persons and objects for discreet/inquiry*/specific check  
- Objects which are lost/stolen/sought as evidence  
- Unknown wanted persons*  
- Return decisions*  

**Additional categories of information held by system**
- Issued, refused, discontinued, extended, revoked or annulled single/double/multiple entry visa  
- Authority where visa application was lodged;  
- Background information: MS(s) of destination, purpose of travel, intended date of arrival and intended stay, applicant's home address, occupation and employer etc.  
- In case of families or groups): links between applications;  
- History of applications of person.

**Information concerning third country nationals or stateless persons above 6 years old:**
- Applicants for international protection  
- Persons apprehended in connection with the irregular crossing of an external border  
- Persons found illegally staying in a Member State

**Possible actions by users of system**
- Search alphanumeric data (biographic and/or passport/ID)  
- Search fingerprints  
- Search palm prints*  
- Search facial images*  
- Create/Update/Delete applications

**Possible actions by users of system**
- Search alphanumeric data (biographic and/or passport)  
- Verify/Search fingerprints  
- Link records  
- Create/Update/Delete applications

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* COM proposals.  
** As proposed in Council Document 10079/17 (mandate for negotiations with the parliament)
<table>
<thead>
<tr>
<th>Purpose of access</th>
<th>SIS (new*)</th>
<th>VIS</th>
<th>EURODAC (new*)</th>
<th>EES</th>
<th>ETIAS (proposal)</th>
<th>ECRIS-TCN (proposal)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Border control</strong></td>
<td>Access to categories of information: all</td>
<td>Access to categories of information: all</td>
<td>Access to categories of information: all</td>
<td>Access to categories of information: all</td>
<td>Access to categories of information: all</td>
<td>No access</td>
</tr>
<tr>
<td>Possible actions: all</td>
<td>Possible actions: all</td>
<td>Possible actions: all</td>
<td>Possible actions: all</td>
<td>Possible actions: all</td>
<td>Possible actions: all</td>
<td>(where appropriate, ECRIS-TCN can inform decisions on inclusion of alerts in the SIS).</td>
</tr>
<tr>
<td><strong>Issuance of short-stay visa</strong></td>
<td>Access to categories of information: - Refusal of entry and stay - Certain categories of lost/stolen objects (blank official, and issued identity documents), as provided for by national law</td>
<td>Access to categories of information: all</td>
<td>No access¹</td>
<td>Access to categories of information: all</td>
<td>Access to categories of information: all</td>
<td>No access</td>
</tr>
<tr>
<td>Possible actions: - Search alphanumeric data - Search fingerprints - Search palm prints (legally possible, but not used) - Search facial images</td>
<td>Possible actions: all</td>
<td>No access¹</td>
<td>Possible actions: all</td>
<td>Possible actions: all</td>
<td>Possible actions: all</td>
<td>No direct access, but information may be requested through criminal records authorities where possible under national law</td>
</tr>
</tbody>
</table>

³ In the case of Eurodac the access for border control purposes refers to a situation of irregular crossing of the external border
⁴ Potential gap in information architecture
### Schengen Information System
- both for EU and third country nationals
- primary objective: both border management and law enforcement

### Other systems
- only for third country nationals
- primary objective: border / migration / asylum management
  - secondary (ancillary) objective: law enforcement

<table>
<thead>
<tr>
<th>Purpose of access</th>
<th>Issuance of ETIAS authorisation</th>
<th>Specific user EBCG Agency</th>
</tr>
</thead>
</table>
| **SIS (new*)**    | - Access to categories of information:  
  - Refusals of entry and stay  
  - Lost, stolen or invalidated travel documents  
  - European Arrest Warrants  
  - Missing persons/ children at risk of parental abduction  
  - Requested to assist in judicial criminal procedure  
  - Persons and objects for discreet/inquiry/ specific check  
  - Objects which are lost/stolen/sought as evidence  
  - Unknown wanted persons  
  - Return decisions  
  - Search alphanumeric data  
  - Alerts for refusal of entry or stay  
  - Search some biographic data (for analytical purposes)  |  
| **VIS**           | - Access to categories of information:  
  - Refusals, revocation and annulments of short stay visas  
  - NB: access and actions are indirect, via ETIAS Central System  |  
| **EURODAC (new*)**| - Access to categories of information:  
  - Return decisions or removal orders  
  - NB: access and actions are indirect, via ETIAS Central System  |  
| **EES**           | - Access to categories of information:  
  - Refusal of entry data  
  - Persons overstaying  
  - NB: access and actions are indirect, via ETIAS Central System  |  
| **ETIAS (proposal)**| - Access to categories of information:  
  - All  
  - Possible actions: all  |  
| **ECRIS-TCN (proposal)**|  |  

- Access to categories of information
- Possible actions

5 According to the Eurodac proposal this information will not be recorded in that system.

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12258/17
ANNEX
DGD 1C
LIMITE
EN
<table>
<thead>
<tr>
<th>Schengen Information System</th>
<th>Other systems</th>
<th>Other systems</th>
</tr>
</thead>
<tbody>
<tr>
<td>both for EU and third country nationals</td>
<td>only for third country nationals</td>
<td>only for third country nationals</td>
</tr>
<tr>
<td>primary objective: both border management and law enforcement</td>
<td>primary objective: border / migration / asylum management secondary (ancillary) objective: law enforcement</td>
<td>primary objective: judicial cooperation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Specific user</th>
<th>SIS (new*)</th>
<th>VIS</th>
<th>EURODAC (new*)</th>
<th>EES</th>
<th>ETIAS (proposal)</th>
<th>ECRIS-TCN (proposal)</th>
</tr>
</thead>
<tbody>
<tr>
<td>EBCG teams⁶</td>
<td>Access to categories of information: all</td>
<td>No access</td>
<td>Access to categories of information: all</td>
<td>No access</td>
<td>No access</td>
<td>No access</td>
</tr>
<tr>
<td>Possible actions:</td>
<td>- Search alphanumeric data</td>
<td>- Search fingerprints</td>
<td>- Usage of valid travel authorisation (ok/not ok)</td>
<td>- Search alphanumeric data</td>
<td>- Search facial images</td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Search fingerprints</td>
<td>- Search facial image</td>
<td>- Search alphanumeric data</td>
<td>- Search fingerprints</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>- Search palm prints (legally possible, but not used)</td>
<td>- Take/Transmit biometric data (on behalf of requesting state)</td>
<td>- Search alphanumeric data</td>
<td>- Search facial images</td>
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<td></td>
<td>- Search facial images</td>
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</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Specific user</th>
<th>Carriers</th>
<th>Specific user</th>
<th>National authorities examining applications for national travel facilitation programmes</th>
</tr>
</thead>
<tbody>
<tr>
<td>No access</td>
<td>No access</td>
<td>No access</td>
<td>No access</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Access to categories of information:</th>
<th>- Existence of valid visa (ok/not ok)</th>
<th>Possible actions:</th>
<th>- Search alphanumeric data</th>
</tr>
</thead>
<tbody>
<tr>
<td>Possible actions:</td>
<td>- Search alphanumeric data</td>
<td>- Search fingerprints</td>
<td>- Search facial images</td>
</tr>
<tr>
<td></td>
<td>- Search palm prints (legally possible, but not used)</td>
<td>- Take/Transmit biometric data (on behalf of requesting state)</td>
<td></td>
</tr>
</tbody>
</table>

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⁶ Teams of EBCG staff involved in return-related tasks, and members of the migration management support teams.
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<td>only for third country nationals</td>
</tr>
<tr>
<td>primary objective: both border management and law enforcement</td>
<td>primary objective: border / migration / asylum management</td>
<td>primary objective: judicial cooperation</td>
</tr>
<tr>
<td><em><em>SIS (new</em>)</em>*</td>
<td><strong>VIS</strong></td>
<td><em><em>EURODAC (new</em>)</em>*</td>
</tr>
</tbody>
</table>

**Purpose of access**
- **Police checks:**
  - Identification or verification of identity (in territory)
- **Prevention, detection or investigation of terrorist offences and other serious criminal offences**

### SIS (new*)
- Access to categories of information: all
- Possible actions:
  - Search alphanumeric data
  - Search fingerprints
  - Search palm prints (legally possible, but not used)
  - Search facial images

### VIS
- No access

### EURODAC (new*)
- Access to categories of information: all
- Possible actions:
  - Search alphanumeric data
  - Search fingerprints
  - Search facial images (after ex-ante authorisation and cascade via national databases, Prüm and VIS)

### EES
- No access

### ETIAS (proposal)
- No access

### ECRIS-TCN (proposal)
- No access

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7 Council Document 10079/17 (mandate for negotiations with the parliament) proposes to delete VIS.
### Schengen Information System
- both for EU and third country nationals
- primary objective: both border management and law enforcement

### Other systems
- only for third country nationals
  - primary objective: border / migration / asylum management
  - secondary (ancillary) objective: law enforcement

<table>
<thead>
<tr>
<th>Specific user</th>
<th>Access to categories of information:</th>
<th>Possible actions:</th>
<th>Purpose of access</th>
<th>Possible actions:</th>
<th>Specific user</th>
<th>Access to categories of information:</th>
<th>Possible actions:</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Europol</strong></td>
<td>all</td>
<td>all, except</td>
<td>Access to</td>
<td>Access to</td>
<td><strong>Eurojust</strong></td>
<td>- European arrest warrant</td>
<td>- Search</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Create/Update/delete</td>
<td>categories of</td>
<td>categories of</td>
<td></td>
<td>- Missing persons/ children at risk</td>
<td>alphanumeric</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>information:</td>
<td>information:</td>
<td></td>
<td>of parental abduction</td>
<td>data</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>all, but</td>
<td>all, but</td>
<td></td>
<td>- Requested to assist in judicial</td>
<td>fingerprints</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>implementation is</td>
<td>implementation is</td>
<td></td>
<td>criminal procedure</td>
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<td></td>
<td></td>
<td></td>
<td>subject to</td>
<td>subject to</td>
<td></td>
<td>- Lost/stolen objects</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>national law</td>
<td>national law</td>
<td></td>
<td>- Unknown wanted persons</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(direct-indirect</td>
<td>(direct-indirect</td>
<td></td>
<td>- Search alphanumeric data</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>access)</td>
<td>access)</td>
<td></td>
<td>- Search fingerprints</td>
<td></td>
</tr>
</tbody>
</table>

### Access to categories of information:
- **SIS (new*)**
- **VIS**
- **EURODAC (new*)**
- **EES**
- **ETIAS (proposal)**
- **ECRIS-TCN (proposal)**

**Specific user**
- **Europol**
  - Access to categories of information: all
  - Possible actions: all, except Create/Update/delete

**Purpose of access**
- **Judicial cooperation between Member States**
  - Access to categories of information: all, but implementation is subject to national law (direct-indirect access)
  - Possible actions: all, but the implementation subject to national law (direct-indirect access)

**Specific user**
- **Eurojust**
  - Access to categories of information:
    - European arrest warrant
    - Missing persons/ children at risk of parental abduction
    - Requested to assist in judicial criminal procedure
    - Lost/stolen objects
    - Unknown wanted persons
  - Possible actions: all
  - Search alphanumeric data
  - Search fingerprints
  - Search palm prints
  - Search facial images

**Unique identifier**
- **12258/17**
- **RR/dk 10**
- **ANNEX DGD 1C**

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8 However, not applied in practice to date.
<table>
<thead>
<tr>
<th><strong>Schengen Information System</strong></th>
<th><strong>Other systems</strong></th>
<th><strong>Other systems</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>both for EU and third country nationals</td>
<td>only for third country nationals</td>
<td>only for third country nationals</td>
</tr>
<tr>
<td>primary objective: both border management and law enforcement</td>
<td>primary objective: border / migration / asylum management</td>
<td>primary objective: judicial cooperation</td>
</tr>
<tr>
<td></td>
<td>secondary (ancillary) objective: law enforcement</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Purpose of access</th>
<th>Migration management: verification of identity and verification of conditions for entry or stay (for TCNs, in territory)</th>
<th>Return of irregular Third Country Nationals</th>
</tr>
</thead>
<tbody>
<tr>
<td><em><em>SIS (new</em>)</em>*</td>
<td>Access to categories of information: all, but implementation is subject to national law (direct-indirect access)</td>
<td>Access to categories of information: all, but implementation is subject to national law (direct-indirect access)</td>
</tr>
<tr>
<td>Possible actions:</td>
<td>- Search alphanumeric data</td>
<td>Possible actions:</td>
</tr>
<tr>
<td>- Search fingerprints</td>
<td>- Search fingerprints</td>
<td>- Search alphanumeric data</td>
</tr>
<tr>
<td>- Search palm prints (legally possible, but not used)</td>
<td>- Search facial images</td>
<td>- Search facial images</td>
</tr>
<tr>
<td>- Search facial images</td>
<td></td>
<td>- Verify/Search fingerprints</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>VIS</strong></th>
<th><em><em>EURODAC (new</em>)</em>*</th>
<th><strong>EES</strong></th>
<th><strong>ETIAS (proposal)</strong></th>
<th><strong>ECRIS-TCN (proposal)</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to categories of information: all</td>
<td>Access to categories of information: all</td>
<td>Access to categories of information: all</td>
<td>Access to categories of information: all</td>
<td>No access</td>
</tr>
<tr>
<td>Possible actions:</td>
<td>Possible actions:</td>
<td>Possible actions:</td>
<td>Possible actions:</td>
<td>No direct access, but information may be requested through criminal records authorities where possible under national law</td>
</tr>
<tr>
<td>- Search alphanumeric data</td>
<td>- Search fingerprints</td>
<td>- Search alphanumeric data</td>
<td>- Search fingerprints</td>
<td></td>
</tr>
<tr>
<td>- Search fingerprints</td>
<td>- Search facial images</td>
<td>- Search facial images</td>
<td>- Search facial images</td>
<td></td>
</tr>
<tr>
<td>- Search facial images</td>
<td>- Verify/Search fingerprints</td>
<td>- Verify/Search facial images</td>
<td>- Verify/Search facial images</td>
<td></td>
</tr>
</tbody>
</table>

Access to categories of information: all, but implementation is subject to national law (direct-indirect access)

Possible actions: all as defined in national law

Purpose of access

- Search alphanumeric data
- Search fingerprints
- Search facial images
- Verify/Search fingerprints
- Verify/Search facial images
- Update the file with the date of removal or date when person has left the country

No access

No access, but information may be requested through criminal records authorities where possible under national law
### Schengen Information System
- both for EU and third country nationals
- primary objective: both border management and law enforcement

<table>
<thead>
<tr>
<th>Purpose of access</th>
<th>Access to categories of information: all but implementation is subject to national law (direct-indirect access)</th>
</tr>
</thead>
</table>
| Possible actions  | - Search alphanumeric data  
|                   | - Search fingerprints  
|                   | - Search palm prints (legally possible, but not used)  
|                   | - Search facial images |
| Possible actions  | Access to categories of information: all |
| Possible actions  | Search fingerprints  
|                   | Search facial images  
|                   | Take/Transmit/Update/Delete |

### Other systems
- only for third country nationals
- primary objective: border / migration / asylum management
- secondary (ancillary) objective: law enforcement

<table>
<thead>
<tr>
<th>Access to categories of information</th>
<th>Access to categories of information: all</th>
</tr>
</thead>
</table>
| Possible actions                    | Search fingerprints  
|                                     | Search facial images  
|                                     | Take/Transmit biometric data (on behalf of requesting state) |

### Other systems
- only for third country nationals
- primary objective: judicial cooperation

<table>
<thead>
<tr>
<th>Access to categories of information</th>
<th>Access to categories of information: all</th>
</tr>
</thead>
</table>
| Possible actions                    | Search fingerprints  
|                                     | Search facial image  
|                                     | Take/Transmit biometric data |

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9 Potential gap in information architecture
10 Teams of Member State asylum experts deployed by EASO.
<table>
<thead>
<tr>
<th>Schengen Information System</th>
<th>Other systems</th>
<th>Other systems</th>
</tr>
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<tr>
<td>both for EU and third country nationals primary objective: both border management and law enforcement</td>
<td>only for third country nationals primary objective: border / migration / asylum management secondary (ancillary) objective: law enforcement</td>
<td>only for third country nationals primary objective: judicial cooperation</td>
</tr>
<tr>
<td><strong>Purpose of access</strong></td>
<td><strong>Purpose of access</strong></td>
<td><strong>Purpose of access</strong></td>
</tr>
<tr>
<td>Issuance of residence permits / long-stay visas</td>
<td>SIS (new*)</td>
<td>VIS</td>
</tr>
<tr>
<td>Access to categories of information: all but implementation is subject to national law (direct-indirect access)</td>
<td>No access</td>
<td>No access</td>
</tr>
<tr>
<td>Possible actions:</td>
<td>- Search alphanumeric data</td>
<td>- Search fingerprints</td>
</tr>
<tr>
<td>Customs checks</td>
<td>No access</td>
<td>No access</td>
</tr>
<tr>
<td>Access to categories of information: all</td>
<td></td>
<td></td>
</tr>
</tbody>
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