European Commission

Summary of EMN Ad-Hoc Query No. 1055 from 18 April 2016

Addressing and preventing the use of social media in migrant smuggling

1. INTRODUCTION

This summary highlights the main findings of the EMN Ad-Hoc Query on 'Addressing and preventing the use of social media in migrant smuggling – exploring cooperation frameworks with social media and other relevant online service providers' launched by the European Commission on 18 of April 2016. It is based on contributions from 20 EU Member States.[1]

2. BACKGROUND AND CONTEXT

The Action Plan against migrant smuggling adopted on 27th May 2015 organised a conference on 12th - 13th January 2016 where experts discussed innovative ways to prevent migrant smuggling,[2] including tackling the use of social media for the purposes of migrant smuggling. The emerging conclusions pointed to the need of a better identification of how social media is used for such purposes and what good practices can be applied in terms of cooperation between national authorities, social media and other service providers.

In this context, the Commission launched an Ad-Hoc Query to gain a further insight into how social media and other relevant online platforms are used by migrants or smugglers and to gather information on practical ways to cooperate with social media providers, internet search engines and social messaging servicesto prevent this modi operandi of migrant smuggling networks.[3] The query also aimed to investigate what online evidence gathered on social media is used in prosecution of migrant smuggling suspects and to ascertain if this process can be further improved.

This summary will be used in a workshop scheduled on 16th June 2016 in which participants will include representatives of relevant national authorities, social media companies as well as EU Agencies. This will allow Member States to compare experiences and good practices at EU level.

3. SUMMARY

3.1. Do Member States monitor the internet for content related to migrant smuggling?

A majority of (Member) States (**BE, CZ, DE, ES, FI, HR, HU, LT, LV, NL, NO, PL, SI, SK, UK**) have reported that they conduct online monitoring activities of mostly open source groups such as:

- ★ Facebook (**BE, CZ, ES, FI, HU, LT, NL, PL, UK**);

- ★ Twitter (**HU, NL, PL, UK**);

- ★ VK - Russian Facebook (**FI, PL, UK**).

Other online platforms that are monitored include Google Maps, Skype, Viber, YouTube, WhatsApp, WordPress, Reddit, etc. Closed groups are monitored in cases where there are criminal proceedings ongoing the exhaustive information of a case is usually classified. Monitoring activities are not always focused on migrant smuggling and when they are these activities are likely to involve border authorities.

Three Member States (**EE, FR** and **SE**) have reported that they do not conduct monitoring activities for migrant smuggling; however they do monitor online activities in other areas such as terrorism. On the other hand **Cyprus** has stated that such methods are not used yet and **Luxembourg** has explained that no information is available on this topic.

For example in **Belgium**, in a 2015 ruling from a Court of first instance, it was noted that the police undertook open source investigations (such as checking Facebook profiles) that helped link two other accused persons to the same affair.

Formatert: Norsk (bokmål)

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[1] BE, CZ, CY, DE, EE, ES, FI, FR, HR, HU, LV, LU, LT, NL, NO, PL, SE, SI, SK, UK.
[2] This includes facilitation of unauthorised entry and transit as well as residence, in line with EU legislation.
[3] Cooperation is envisaged with Facebook, Twitter, Google, Yahoo, Viber, WhatsApp, iMessage etc.

3.2. How is social media and the internet principally used for the purposes of migrant smuggling?

The data provided by the Member States that monitor the use of social media and internet to smuggle migrants is limited and insufficient to provide a percentage share of instances where authorities came across:

★ Advertisements of smuggling services;

★ Informative materials guiding irregular migrants; or

★ Communications between migrants and smugglers.

Nevertheless, eleven (Member) States (**BE, CZ, ES, FI, HU, LT, NL, NO, PL, SK, UK**) have confirmed that social media is used to advertise smuggling services, provide information on migration routes and communicate with smugglers using applications such as WhatsApp or Viber. For example Facebook is used to provide information on specific trips (travel packages including price), contact details, live blogs on the progress of other clients across the sea as well as for sharing of stories to tackle safety concerns of potential clients.

Investigations have discovered that smugglers express a preference for communicating over the internet rather than phone because it strengthens anonymity and reduces law enforcement risks while allowing for expansion of operations. Other similar activities on social media include advertisements of sham marriages. For example **Poland** explained that they detected advertisements of such services being provided in the UK in exchange for GPB 6,000.

Under this specific query nine Member States (**CY, DE, EE, FR, HR, LU, LV, SE, SI**) did not have any specific findings to report, either because they did not conduct online monitoring or no data was available.

3.3. What can social media and other online service providers do to address the increase use of social media in the smuggling of migrants?

There are several actions recommended by Member States that online service providers can take to address the increase use of social media in the smuggling of migrants, among which the following can be mentioned:

★ Proactively removing suspicious internet content (**CZ, EE, ES, FI, FR, HR, HU, LT, LV, PL, SE, SK, UK**);

★ Reporting cases to authorities which can conduct investigations (**CZ, EE, ES, FI, FR, HU, LT, LV, PL, SE, SK, UK**);

★ Providing warnings (pop-up windows) to users accessing such information or redirecting them to a new page (**CZ, FI, HR, HU, SK, UK**);

★ Improving cooperation with EU Agencies (**CZ, EE, ES, FI, HU, LT, LV, NL, SI, SK, UK**).

Belgium reported that some online service providers might be unaware of the activities that are taking place on their online platform (Google Plus was given as an example), while with others like Facebook cooperation is already at good levels to access relevant data and information.

In general, online service providers have stated that they have no obligation to monitor the information provided in their platforms (as this goes against the free movement of information principle enshrined in the E-Commerce Directive). At the same time, if actual content is not hosted on their websites (for example only an external link is found) then they are not liable. Even if content is removed from their platforms this is not effective and can be easily circumvented because new content can be easily and rapidly created. In this regard, **Germany** reported that a vast number of online platforms are operated from abroad, which makes it difficult to effectively tackle the issue.

Mitigating actions can be undertaken by requesting online service providers to store data from their platforms for a certain amount of time to allow access if needed at a later time (in cases of new criminal investigations). Boosting national and international cooperation in this area was also regarded as an important aspect considering the borderless nature of the online environment.

3.4. Do Member State cooperate with social media and online service providers to prevent and fight migrant smuggling? If so are there any good examples?

Eight Member States (**BE, CZ, DE, EE, ES, FI, HU, UK**) have reported that they have some form of cooperation with online service providers to prevent and fight migrant smuggling; however five of these Member States (**BE, CZ, DE, EE, ES**) have stated that there is no formal framework in place for a specific partnership in this area. While there were some positive experiences in **Belgium** (with Facebook and Twitter), **Hungary** (with Western Union), **Finland** or the **United Kingdom** the consensus was that there was room for improvement and there were several challenges faced in this regard, namely:

★ It is difficult to cooperate in this area due to the national legislation on privacy;

★ Most online service providers have offices abroad which makes cooperation cumbersome;

★ Cooperation is often slow and information can be lost because platforms can change rapidly;

★ The procedures to access data once a request is submitted to providers are long.

On the other hand a majority of (Member) States have stated that they either have no such practice to report on (**CY**, **FR, LT, LV, NL, PL, SK**) or they have no information about this question (**HR, LU, SE, SI, NO**).

3.5. If no examples of cooperation were identified in the previous section, are there examples of cooperation with online service providers on other crime areas? Could these be applied in the context of migrant smuggling?

Several Member States (**BE, CZ, DE, EE, ES, NL, PL**) gave examples of existing cooperation in other crime areas such as human trafficking and sexual exploitation (**ES, NL**), prevention of suicide attempts (**PL**) or improved cooperation over time with online service providers such as Facebook and Twitter (**BE**) or EU Agencies such as Europol (**DE**).

In the case of **Poland** authorities stay in permanent contact with the big online service providers and, if information emerges that a person intends to commit suicide, the service provider will inform relevant authorities immediately. Other examples can be found in the **Netherlands** which has developed specific tools to detect and address human trafficking on social media (by using web crawlers such as Coosto, Icolombo, Maltego and Palantir) and **Belgium** which no longer needs to send rogatory letters to Facebook or Twitter to access data since now a request from the Prosecutor's Office is sufficient.

However, most (Member) States stated that they either have no such practice to report on (**CY, HU, LV, LT, SE, SK**) or they have no information about this question (**FI, FR, HR, LU, NO, SI, UK**).

3.6. Do Member State use social medial and online platforms to gather evidence on migrant smugglers for judicial purposes? Is such evidence used in investigations and prosecution?

A majority of Member States (**BE, CZ, DE, ES, FR, HR, HU, LT, NL, PL, SE, SI, UK**) have reported that they use social media and online platforms to gather evidence against migrant smugglers. However, the exact procedures differ among Member States, for example in **Hungary** only the information that is provided directly by the online service provider is considered adequate while in **Belgium** print screens and Facebook pages are used as evidence. The **Netherlands** also explained that most migrant smugglers were not located in the EU and this made

investigations difficult, whilst the **United Kingdom** reported that to date there have been no prosecutions in the country against smuggling services using social media.

The remaining (Member) States stated that they either have no such practice to report on (**CY**, **EE, LV, SK**) or they have no information about this question (**FI, LU, NO**).

3.7. Are there any public sources of information, reports or studies that Member States can share related to social media and migrant smuggling?

With the exception of **Belgium**, **Spain** and **Norway**, no further information was provided by the Member States concerning relevant reports or studies in this area.

In the case of **Belgium** and **Spain** several news articles and public sources were given as a reference of cooperation with online service providers (such as Facebook or Google) in tackling trafficking of persons and reference was made to the E-Commerce Directive and the Budapest Convention on Cybercrime. **Norway** also provided information about a national strategic project related to asylum and migration movements to Norway which described the use of the internet and Facebook in this area.

Done in June 2016