

Minor Interpellation tabled by Member of the Bundestag Andrej Junko and others from the Left Party parliamentary group

Opening of an international investigative bureau in Vienna to combat migrant smuggling

BT printed paper 18/8493

Preliminary remarks of the questioners:

On 4 May 2016, the Austrian Minister of the Interior Wolfgang Sobotka opened the Joint Operational Office against Human Smuggling Networks (JOO) in Vienna (press release by the Austrian Federal Criminal Police Office of 4 May 2016). In a statement, the Federal Ministry of the Interior stated that the institution was an “international investigative bureau against human smuggling”. According to the Ministry, the focus of the JOO’s investigative work was on the Balkan route and the route via Italy. The JOO is intended to serve as a “regional operational platform” for international investigations (Europol press release of 4 May 2016). The organisation tackles “migrant smuggling organised crime groups”. During the “hot phase” of operations, the JOO seeks to involve international investigators in order to “work jointly on investigations”. The institution’s legal basis is the Police Cooperation Convention for South East Europe (PCC-SEE) with police personnel from the Balkan region and EU countries. The centre is also intended to be a point of contact for investigations of authorities also from the migrants’ countries of origin. The investigative bureau liaises closely with the European Migrant Smuggling Centre (EMSC) launched by Europol in February, which was opened at a joint conference by Europol and Interpol (Europol press release of 22 February 2016). The objective of the EMSC, which was first mentioned in May 2015 in the European Agenda on Migration, is to strengthen Europol’s role in efforts to “smash smuggling networks” (“Bürgerrechte & Polizei/CILIP”, civil rights and police magazine, of 21 February 2016). The centre is an extension of the Joint Operation Team Mare situation centre launched by Europol in The Hague last year. Like the border agency Frontex, the EMSC has innovative EU Mobile Investigation Support Teams (EM IST) at its disposal. Made up of “experts and analysts from Europol”, the teams will initially be deployed in so-called “hotspots” in Italy and Greece. Their task is to “conduct investigations to expose smuggling networks” and also to prepare “tangible operational activities” with national investigative teams from the EU Member States.

All responsible EU agencies receive regular early warning reports in addition to “operational and strategic products” from the Mobile Investigation Support Teams for the purpose of opening investigations or carrying out raids.

The JOO in Vienna is considered to be the “operational link between the EMSC and Europol”. Part of the Bundeskriminalamt (German Federal Criminal Police Office) in organisational terms, the JOO belongs to the European Multidisciplinary Platform against Criminal Threats (EMPACT). The JOO is therefore eligible to receive support from the European Union and Europol and has an initial complement of 38 staff members. Europol intends to second additional personnel.

1. Which authorities of which EU Member States are, to the knowledge of the Federal Government, involved on a continuous or case-specific basis in the work of the Joint Operational Office (JOO) in Vienna?

- a) How is the centre financed, and what funds are drawn from which budgetary sources?*
- b) Which authorities or agencies have seconded how many staff members to the JOO?*
- c) What, to the knowledge of the Federal Government, is meant by the Federal Criminal Police Office's statement that up to eight foreign investigators have been "deployed in operations" in order to collaborate on an investigation?*
- d) What is the legal basis of such operational work by foreign investigators in the countries in question?*

Re 1.

The Joint Operational Office (JOO) in Vienna was set up within the framework of the EMPACT priority "Illegal Migration" (Multidisciplinary Platform against Criminal Threats) in order to support the Member States and associated partners in their efforts to combat people-smuggling, predominantly along the Balkan route. The objective behind the establishment of the JOO is to promote direct, operative cooperation by the responsible authorities. The JOO was established within the Sub-Department "Trafficking in Human Beings and Human Smuggling" at the Federal Criminal Police Office in Vienna. The national authorities (generally supreme national authorities on people-smuggling) of Germany, Austria, Belgium, Bulgaria, Finland, the UK, Hungary, Croatia, Romania, Sweden, Slovenia and Slovakia, as well as Europol and Frontex, are members of the JOO.

a)

The JOO is financed with funds set aside for implementing the EMPACT priority. Total funds amount to around 300,000 euros for the current calendar year.

b)

The JOO is not permanently staffed with seconded personnel. Secondments are made exclusively on a case-specific basis and are for a limited period. It is therefore impossible to make any reliable statements with regard to this matter. Please see the answer to question 1 for further information.

c)

Joint investigations are conducted within the framework of bilateral or multilateral procedures. Investigative teams may be seconded to Vienna from the countries involved when required in order to attend case-specific meetings or engage in coordinating activities.

d)

The legal basis for police officers from EU Member States is Section 28 of the Austrian Federal Act on Police Cooperation with the Member States of the European Union, as well as Council Decision 2009/371/JI establishing Europol. Moreover, the Police Cooperation Convention for Southeast Europe (PCC SEE) applies to investigators from southeastern Europe.

2. *What objective does the JOO pursue?*

- a) *How does the centre distinguish itself from the other tasks of the police agency Europol or the European Migrant Smuggling Centre (EMSC)?*
- b) *How does the JOO cooperate with the EMSC?*
- c) *What are the centre's regional priorities?*

Re 2.

Please see the answer to question 1.

a)

The JOO was set up as a supporting element of cross-border police cooperation and functions as an "operational link" to the European Migrant Smuggling Center (EMSC) at Europol.

b)

Please see the answer to question 2a.

c1)

The Federal Government has no information regarding this matter.

3. *Which authorities in which countries, to the Federal Government's knowledge, participate in the Thematic Group on Illegal Immigrant Smuggling established by Eurojust?*

Re 3.

To the best of the Federal Government's knowledge, only representatives of Eurojust's National Desks participate in the Thematic Group on Illegal Immigrant Smuggling set up by Eurojust. The German national member of Eurojust is a member of this group. Moreover, as far as the Federal Government is aware, the national members of Bulgaria, France, Greece, Ireland, Italy, Luxembourg, the Netherlands, Sweden, Hungary and the UK are also members of this group.

4. *Which national authorities attended EMPACT's kick-off meeting on irregular migration on 3 and 4 May 2016 to the knowledge of the Federal Government?*

- a) *What was the outcome of the discussions on "future investigative steps" and what arrangements were made?*
- b) *To what extent were Joint Police Operations (JPO) also discussed or planned at the EMPACT meeting or in the context of the JOO?*

Re 4.

The kick-off meeting was attended by representatives from Eurojust, Frontex and Europol, as well as by representatives from Germany, Austria, Bulgaria, Switzerland, Czech Republic, Finland, Greece, Croatia, Hungary, Macedonia, Romania, Serbia, Slovakia, Slovenia, Sweden and Kosovo. Germany was represented by the Federal Police.

a)

Investigative procedures from different countries that may be drawn on in the context of the EMPACT priority Illegal Migration were discussed at the meeting. A joint procedure for combating people-smuggling networks was formulated as an objective.

b)

Holding joint action days was a topic of discussion. No specific information on this is available at the present time.

5. How, to the knowledge of the Federal Government, is the JOO cooperating with the Cooperation Convention for South East Europe (PCC-SEE) and with the Southeast European Law Enforcement Centre (SELEC), supported by Europol, in Bucharest?

Re 5.

The JOO is part of the Federal Criminal Police Office in Vienna. As far as the Federal Government is aware, the cooperation agreements of the Federal Criminal Police Office therefore apply.

6. Which authorities or other partners are currently working with the German-Austrian Police Cooperation Centre in Passau (Bundestag printed paper 18/7797)? Which tasks are performed by the centre and to what extent is a cooperative partnership with the JOO envisaged?

Re 6.

The German Federal Police, the Bundeskriminalamt (where required) and the police force of the Free State of Bavaria, as well as the Austrian Federal Police are working with the Police Cooperation Centre in Passau (PKZ). The PKZ performs the following tasks:

- Exchanges and analyses of information
- Assistance with drafting/analysing regional (border) police situation analyses, analysing and coordinating the migration situation, assistance with transfers and repatriations and coordinating deployments
- Support in the event of a temporary reintroduction of border controls, coordinating joint patrols and checking documents

A cooperative partnership with the JOO is not envisaged.

7. What funds and competencies does the JOO have for joint European investigations?

Re 7.

The JOO does not have any specific competencies or funds at its disposal.

8. To what extent are the JOO's investigators also to be involved in interrogating individual migrants?

Re 8.

The Austrian authorities are responsible for interrogating migrants entering the country. For further information, please see the answer to question 7.

9. How does the Federal Government define the term “illegal immigrant smuggling”? What information does it have with respect to the various interpretations in other Member States, and to what extent is the Federal Government seeking to establish an EU-wide definition?

- a) To what extent should the investigative work of the JOO be limited to groups of “organised crime”?*
- b) Under which circumstances, in the view of the Federal Government, could or should the JOO prosecute non-for-profit smuggling activities carried out for humanitarian or political reasons?*

Re 9.

Council Decision 2009/371/JI uniformly defines “illegal immigrant smuggling” as any activities intended deliberately to facilitate, for financial gain, the entry into, residence or employment in the territory of the Member States, contrary to the rules and conditions applicable in the Member States. According to the United Nations Convention Against Transnational Organised Crime (UNTOC), “smuggling of migrants” denotes the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident. Such activities are a punishable offence pursuant to Section 96 “Smuggling of foreigners into the federal territory” and Section 97 “Smuggling of foreigners into the federal territory resulting in death; smuggling for gain and as organised gangs” of the Residence Act.

a) and b)

Please see the answer to question 7.

10. In which way does the Federal Government intend to respond to calls to “make optimal use” of information systems in place, as well as public data, platforms and partnerships with social media companies and all other available instruments in order to use data and systems for “the purpose of predictive analysis of migrant flows and consequent smuggling activities” (Council conclusions on migrant smuggling of 10 March 2016)?

Re 10.

The Federal Government is yet to adopt a clear position on this matter.

11. What information does the Federal Government have concerning the extent to which the JOO is intended to conduct or coordinate the forensic analysis or analysis of the contents of tapped telephone calls (including translations of the same)?

Re 11.

Please see the answer to question 7.

12. What does the Federal Government believe is meant by calls from the Council for the Commission to assist the Member States' efforts to "pro-actively" conduct financial investigations in "migrant smuggling" cases and share relevant findings (Council conclusions on migrant smuggling of 10 March 2016)?

Re 12.

Financial investigations are always assessed in the context of investigative procedures relating to the smuggling of migrants.

13. Which German authorities (police, customs, intelligence services), coordination and cooperation platforms or other forms of collaboration are currently working (directly or indirectly) with the EMSC or are supplying information?

Re 13.

The Federal Police and the Bundeskriminalamt are working together with the EMSC within the scope of their statutory duties insofar as this serves the purpose of investigating serious or organised crimes.

14. Which German authorities receive daily situation/analysis reports on the migration situation from the "monitoring centre to analyse current migration flows within the EU" (Europol Monitoring Team - EPMT) and according to which criteria?

Re 14.

The Bundeskriminalamt, as a national agency for Europol, is sent Europol's daily situation reports, which are made available to the Federal Police and the criminal police offices of the *Länder* as required. Moreover, important information from the reports is communicated to the competent authorities within the framework of the Joint Centre for Illegal Migration Analysis and Policy (GASIM).

15. Which details concerning the implementation of plans of the European Migrant Smuggling Centre can the Federal Government share that indicate that the Focal Point Checkpoint, the Joint Operation Team (JOT) Mare and the subunits JOT Secondary, the European Monitoring Team (EPMT), the Europol Mobile Investigation Support Team (EMIST) and the Europol Mobile Analysis Support Team (EMAST), which are to be re-established or restructured, are to be combined (Bundestag printed paper 18/7797)?

Re 15.

The European Migrant Smuggling Centre's plans have, to the knowledge of the Federal Government, been implemented through the establishment of three areas:

- "Deployments" as a central contact point for the European Union Regional Taskforce (EU RTF)
- "Operations" to provide operational support for Member States and partners, particularly with the Focal Point Checkpoint, JOT Mare, the European Mobile Investigation Support Team (EMIST) and the Europol Mobile Analysis Support Team (EMAST)
- "Strategy" to provide strategic support for Member States and partners

Please see also the Federal Government's answer to question 22 of the Minor Interpellation tabled by the Left Party parliamentary group, Bundestag printed paper 18/7797 of 4 March 2016.

16. What information has the Federal Government received in the interim with regard to how the European Migrant Smuggling Centre is "investigating internet content that is used by people smugglers to attract migrants" and what efforts are being made with a view to "stepping up Europol support for detecting internet content used by smugglers" (Bundestag printed papers 18/7797 and 18/6591, (COM(2015) 285 final)?

- a) *How many cases of "internet content that is used by people smugglers to attract migrants" have been found by the Internet Referral Unit and requested for deletion, and in which Focal Points is information on this internet content stored by Europol?*
- b) *What information does the Federal Government have with regard to the way in which the Commission is ensuring that "a mapping exercise is carried out with the cooperation of relevant agencies on the ways in which social media is used for the purpose of migrant smuggling" (Council conclusions on migrant smuggling of 10 March 2016)?*
- c) *How will Europol ensure "that the EMSC in cooperation with the Internet Referral Unit, in addition to the current activities of other actors, supports the enlargement of existing and future cooperation platforms with social media and internet service providers, as well as with financial institutions"?*

Re 16.

Please see the Federal Government's answer to question 24 of the Minor Interpellation of the Left Party parliamentary group, Bundestag printed paper 18/7797 of 4 March 2016. The Federal Government does not have any further information at its disposal in this regard.

a)

The Federal Government has no knowledge concerning the number of cases of "internet content used by people smugglers to attract migrants". According to statements by Europol, a larger number of user accounts are currently being analysed. Europol is responsible for storing information in Focal Points, subject to its respective content. The Focal Point Checkpoint is intended as a source of information on people-smuggling.

b)

The Federal Government has no information regarding this matter.

c)

According to statements by Europol, the EU's Internet Referral Unit is taking an active part in the European Internet Forum founded by the European Commission on 3 December 2015.

17. What information does the Federal Government have with respect to plans by EU agencies to "track and control people trying to reach the continent before they get here" (Guardian article of 18 February 2016)?

- a) What meetings have taken place on this issue, and how accurate are reports by the daily newspaper The Guardian that companies such as Securiport LLC, Crossmatch, Unisys, Thaies and 3M were in attendance?*
- b) What applications were presented by which companies at the meetings?*
- c) To what extent are these efforts being made in connection with Quick Check Cards, whose introduction is being planned by the border agency Frontex, and what is this intended to achieve?*
- d) What information does the Federal Government have with regard to how Frontex intends to use the photos stored in the iFADO database for the Quick Check Cards (Council document 7819/16)?*
- e) What data from these Quick Check Cards is stored by Frontex in the iFADO database?*

Re 17., a) and b)

The Federal Government has no information regarding these matters.

c)

Quick Check Cards (QCC) store information that is used to authenticate documents. They are intended to help officials deployed within the framework of Frontex measures to reach decisions when evaluating documents. This is unrelated to the measures mentioned above.

d)

The iFADO system (intranet False and Authentic Documents) was set up as a joint document database for the EU Member States for the purpose of authenticating travel documents. In order to facilitate its work, Frontex requested permission to use document images from the iFADO database to produce document information in the form of QCCs. The border agency submitted its request to the EU Council Working Party on Frontiers/False Documents.

e)

The Federal Government has no information regarding this matter.

18. How does the Federal Government intend to respond to calls to engage in dialogue, in particular with the “transport sector”, to “explore existing and develop new best practices, codes of conduct and guidelines in order to prevent migrant smuggling and cope with associated risks” (Council conclusions on migrant smuggling of 10 March 2016), and which companies or associations are being addressed in this regard?

Re 18.

Meetings of the “Security in Logistics” working group are held annually at the Federal Ministry of Transport and Digital Infrastructure to discuss current issues concerning risk prevention in the area of freight and traffic logistics. This working group is made up of representatives of associations from the transport industry, operators of critical infrastructures and experts from traffic and security authorities. One outcome of these meetings was the 2014 Security Strategy for the Freight Transport and Logistics Industry. The working group intends to put migrant smuggling on the agenda for its next meeting.

19. What information does the Federal Government have concerning the establishment of an INTERPOL Specialist Operational Network against Migrant Smuggling in close cooperation with Europol, which is to consist of members from source, transit and destination countries (Bundestag printed paper 18/7797)?

Re 19.

As far as the Federal Government is aware, the Interpol Specialist Operational Network against Migrant Smuggling (ISON) has been set up and consists of experts from source, transit and destination countries. Its objective is to improve the exchange of police information around the world in order to bring migrant smugglers to justice and to break up smuggling networks. Europol is supporting this network with operational measures within its own jurisdiction. The Federal Government has no information concerning ISON’s activities.

20. What further details has the Federal Government since become aware of regarding the objectives, participants and timeframe for Operation Hydra, scheduled for 2016, which, according to the Federal Government, seeks to “step up manhunts for persons who are (currently) being pursued both internationally and nationally in connection with migrant smuggling” (Bundestag printed paper 18/7797)?

Re 20.

Operation Hydra was proposed by the Europol and INTERPOL Operational Forum on Countering Migrant Smuggling Networks. Its objective is to support the Member States in their efforts to locate and arrest the chief culprits or organisers of people-smuggling by drawing on INTERPOL’s procedures for tracking down fugitives.