



**Investigation and Inspection Career Union
Portuguese Immigration and Borders Service**

Refª 40 DN SCIF 2020

**CHAIRPERSON OF THE
MANAGEMENT BOARD
EU-LISA**

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Subject: Database Management and Control in Security Services and Security Forces in MAI (Ministry of Internal Affairs) – Release 5118/2020 30th of April.

The Investigation and Inspection Career Union of SEF (Portuguese Immigration and Borders Service) directs concerns to your attention regarding the following.

Following a certain regularity, news has been published showing intentions on behalf of government officials, in gathering, within the Internal National Security Network, the database of all departments from the MAI (Ministry of Internal Affairs), namely, Security Forces and SEF (Portuguese Immigration and Borders Service).

Currently we are in the midst of more than just news. On the 30th of April, with the ongoing State of Emergency, the Government, on behalf of the acting Secretary of State and of Internal Affairs, created a task-force... “whose mission was to carry-out a diagnosis assessing software and hardware needs within two Portuguese police departments (GNR and PSP) and also the SEF. In the preamble of the dispatch N° 5118/2020



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that created the current task-force, it specifically states that the objective of the diagnosis is to transfer all database information from these Security Forces to the *Datacenter and Disaster Recovery* of the RNSI (Internal National Security Network).

Going ahead with this transfer process will always be a wrongful option, but, because it is also not foreseen in the Law, besides being wrong, it will also be against the Law.

On behalf of SCIF (Investigation and Inspection Career Union) and also regarding SEF, we consider this action to be wrong because it does not take into account the safeguarding of National Interest as well as the International commitments that the Portuguese Government needs to uphold as far as Portuguese Immigration and Borders Service are concerned.

Throughout the years, the SEF have garnered great national and international prestige upon themselves, which has led to a significant recognition of the important role that our Government officials have carried-out regarding migration. This prestige comes from the fact that the SEF are able to uphold the mission that they are handed keeping to high standards of efficiency and competence.

Among other tasks of great relevance there are three fundamental areas in SEF's mission:

i) To ensure management and communication of data related to the National Schengen Information System and within other information systems common among European Member States regarding people circulation control (for example, The Visa Information System and the Anticipated Passenger Information System).

ii) To ensure Portuguese Government Representation in working groups, committees and agencies dealing with immigration issues, and



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EU borders and asylum, namely: “Strategic Immigration Committee, Borders and Asylum” and “High Level Migration Asylum Group” and the “ICMPD” (International Centre for Migration Policy Development) among other International organisations, being present at EBCGA (European Border and Coast Guard Agency) and EASO management boards and taking part in police cooperation working groups that need to carry out joint cooperation work in this area.

iii) To ensure representation of the Portuguese Government in the development of Schengen Acquis.

Any of these areas of activity will be strongly affected as from the moment when SEF ceases to have complete and exclusive control over its database and the information included herein is able to be accessed without their intervention, consent or knowledge. This migration to the mentioned *Datacenter* puts the international role of the SEF at stake and its job in representing the Portuguese Government. The service will no longer have exclusive control over reality in order to carry-out the job that is expected of it, among many others, in the following situations: To ensure in Portugal, the operational management of the European Information Systems, which includes, guaranteeing its functioning 24 hours a day, and seven days a week, with a satisfactory level of operational quality, which requires the replacement of physical borders every time the system goes through an interruption of more than six hours; to ensure that all those who access the data in the system are bound by the obligation of professional secrecy or other equivalent confidentiality obligations; to ensure the integration of its natural infrastructure within the European systems and to manage personnel access with strict clearance policy.

SEF will no longer be in a position to continue contributing fully towards the building of a EU commonplace for Justice, Freedom and



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Security (of which SISone4all stands as an example that is embedded in our memories) and fulfilling its role of representing the Portuguese Government within the Schengen Information System. The respectability and prestige that have been achieved will be strongly shaken as a representative of Portugal in the Strategic Immigration Committee, Borders and Asylum and in the High Level Migration Asylum Group, within FRONTEX and EASO Management Boards and in other groups and organisations that it is currently part of.

Furthermore, bilateral relations between the Portuguese Government and remaining member states will be severely affected by the mistrust created as safety conditions diminish regarding data protection and sensitive information. The existence of a weakened and frail link in this chain of External Community Border Protection, then leads to great prudence in sharing specific types of information coming from other states which causes irreparable losses for everyone.

This is the price that Portugal and SEF will have to pay in order that MAI (Ministry of Internal Affairs) may be part of a police information system which is not provided by law. The legislator has not defined the scope of such a system nor the objective to be achieved by processing the data gathered in this way.

Moreover, article 11th of LOIC (Criminal Investigation Organization Law), does not allow this solution. This standard allows only for information to be shared among criminal police bodies according to criteria of demand and competence, having it being shared through different levels of access within each criminal police body. This standard also determines that sharing and access of information is regulated by law, which has not been the case to date.



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The current legal framework establishes the duty of cooperation between criminal police bodies and regulates their collaboration within Europol and Interpol and ensures access to the needed data for the exercise of their powers on behalf of criminal police bodies. Furthermore, the Integrated System of Criminal Information does not correspond to a single database, consisting only in the sharing of information among criminal police agencies, according to the demand and competence of each one and always aware of the safeguarding of justice secrecy and state secrecy. Although it is expected that the Secretary General of the Internal Security System ensures coordination, cooperation and information sharing among the criminal police bodies, he never accesses the files or any elements contained therein, nor the databases themselves.

In short, within the current legal framework, the merging of criminal police databases is not possible, even if they are functionally integrated within the same ministry, even when the merger is presented as a covert transfer to a common *Datacenter*.

It should be added that the RNSI (Internal National Security Network) is an administrative service which is part of the General Secretariat of the MAI (Ministry of Internal Affairs), embodied by a management board and an inexpressive number of employees. Currently, all technical activity regarding help and support systems in the network, are outsourced by means of contracts which are signed through direct agreement.

A final word to address the issue of cost reduction allegedly as a result of the Government's recommended solution. We are dealing with an extremely difficult objective to assess accurately. But regardless of the assessment, the evaluation element is not put forward correctly. At this level of State Action, cost reduction is not strong enough to be presented



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as an advantage in one model in comparison to another, it is essential that a risk analysis be presented. Well, there is no doubt that enabling access to sensitive data to more users who do not act on demand or with competence significantly increases the risk of intrusion or illegitimate access to the systems. Thus, in a cost/risk analysis, the reduction in cost can never be considered as a benefit, in view of the enormous risk it carries. We are again dealing with an area of State Action where the risk variable must be as low as possible, even if this means bringing up the cost variable. Cost reduction can only be seen as an advantage if it does not increase the risk...which is not likely in the given situation.

In this context, it is of the utmost importance and relevance that the commission under your chairmanship be able to look into this situation, requesting that the government provide the necessary clarifications, upholding the respect for the Law as well as ensuring the unique prestige of SEF.

We would also like to express beforehand that we are fully committed towards cooperating with your institution.

Yours faithfully,

Barcarena 09-07-2020

For the National Board

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(President of SCIF)
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