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Subject: Formal consultation on EASO's social media monitoring reports (case 2018-1083)

Dear...,

Thank you very much for your email of 18 December 2018 launching a formal consultation of the EDPS under Article 57(1)(g) of Regulation (EU) 2018/1725¹ (the Regulation) on the above topic, registered as case 2018-1083.

Proceedings

On 18 December 2018, the EDPS requested further information and clarifications on the legal basis, persons concerned, topics monitored, data processed, recipients and the applicable retention period.

On 16 April 2019, EASO provided some additional information and requested a telco, which took place on 2 May 2019. During the telco, EASO clarified inter alia that:

- EASO accesses open source info, manually looks at groups and produces reports, which according to them no longer contain personal data;
- Although EASO refers to it as "SMM project", this processing operation has been going on since 2017. There was no notification, as there was no DPO appointed until late last year. There was also no DPIA;

¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39–98.

- EASO stated that they consider Article 9(3) EASO Regulation as legal basis for this processing operation.
- As regards data subjects concerned, EASO explained that they target persons pertaining to certain language groups and using certain keywords in their social media posts. In addition to languages already mentioned in previous correspondence as target languages for their monitoring of open source info, EASO added Kurdish and Turkish during the telco.

It was agreed during the telco that EASO would come back by 10 May 2019 with specific references and clarifications regarding their legal basis and clarifications regarding the data protection notice, recipients and the retention period.

On 21 May 2019, the EDPS received a meeting request by the EASO DPO. EDPS services met with four EASO representatives (including the EASO DPO) on 11 June 2019. During the meeting, EASO highlighted:

- their use of open source / publically available info and their commitment that the browser history will be deleted each week;
- the fact that the reports (= final product) contain no personal data, as e.g. images of visa are "smudged out" irreversibly. EASO noted that a decision on whether reports should contain images at all is currently pending;
- the evolving character of the keyword list, often using slang expressions and mostly in combination, which also reduces the number of potential data subjects;
- that the four international organizations mentioned so far (UNHCR, IGC, IOM, and Interpol) are indeed the only international recipients (no intention to add others);
- In addition, EASO referred to (a) Article 9(3) of the current EASO Regulation, (b) Articles 4 and 31 of the future EASO Regulation (currently pending for adoption), (c) a future Management Board decision, possibly based on Art. 30(2) of the future EASO Regulation as possible (future) legal basis for the processing operation.

As agreed during the meeting of 11 June 2019, EASO provided the record of the processing operation ("DPO notification form") as well as an EN version of the data protection notice on 14 June 2019. This was further complemented by a DPIA on 28 June 2019.

Purpose of the processing

According to the DPIA (pp. 2+3), "The purpose of the SMM is to provide EASO management and relevant stakeholders (Member States, European Institutions and EU Agencies, UNHCR, IGC, Interpol and IOM) with reports on the latest shifts in asylum and migration routes, smuggling offers and the discourse among social media community users on key issues – flight, human trafficking and EU+ asylum systems/processes".

The DPIA further (pp. 6+7) outlines that "EASO's SMM activities aim to support the implementation of the Common European Asylum System (CEAS) by alerting Stakeholders, notably migration and asylum authorities of EU+ Member States, as well as relevant EU Institutions / EU Agencies, and relevant International Organisations (UNHCR, IOM, IGC and Interpol) of developments which are relevant to such implementation. It does this by:

- Supporting management and the different sectors/units within EASO with research on and information from social media in the languages that the project covers. Examples of such sectors/units include within the Department of Operations, Country of Origin Information (COI), Information and Analysis Unit (IAU), and the Department of Asylum Support (DAS);

- Supporting the different EU Institutions/Agencies with tailor-made reports and ad hoc research on social media regarding specific asylum related incidents/trends;
- Providing national authorities of the EU+ Member States with the latest relevant findings related to the situation and concerns of asylum seekers/refugees en route to as well as in the EU and raising awareness of new trends, gaps or misinformation;
- Gaining an in-depth knowledge about the mixed migration dynamics and the perception of national and EU asylum-related rules, laws and practices by members of the communities of concern;

Identifying fake news and/or disinformation regarding the different aspects of the Common European Asylum System (CEAS) and bringing them to the attention of the migration and asylum authorities of the Member States.”

Risks linked to the use of social media monitoring tools

Social media users monitoring is a personal data processing activity that creates high risk for individuals’ rights and freedoms. It involves uses of personal data that go against or beyond individuals’ reasonable expectations. Such uses often result in personal data being used beyond their initial purpose, their initial context and in ways the individual could not reasonably anticipate. The profiling activities that feed monitoring may imply interference of interests or other characteristics which the individual had not actively disclosed, thereby undermining the individual’s ability to exercise control over his or her personal data.

The EDPS has already stressed that the concern of using data from profiles for different purposes through algorithms is that the data loses its original context. Repurposing of data is likely to affect a person’s information self-determination, further reduce the control of data subject’s over their data, thus affecting the trust in digital environments and services.² Indeed, the diminution of intimate space available to people, as a result of unavoidable surveillance by companies and governments, has a chilling effect on people’s ability and willingness to express themselves and form relationships freely, including in the civic sphere so essential to the health of democracy.³

The use of such a tool must thus be surrounded by strong safeguards for the protection of individuals’ rights and freedoms and strictly comply with the applicable data protection framework.

Assessment

In light of the above and the information gathered during the consultation process outlined above, the EDPS conducted the following analysis:

1. Lack of a legal basis

a) In their consultation of 18 December 2018, EASO expressed their intention to base this processing operation on **Arts. 8, 9 and 11 of Regulation 439/2010 (EASO Regulation)**. However, upon examination, the EDPS considers none of these provisions as suitable legal basis (see **Annex 1** for details, for Article 9(3) EASO Regulation, see also section c) below).

² EDPS Opinion on online manipulation, Opinion 3/2018, 19 March 2018, p.15

³ EDPS Opinion on online manipulation, Opinion 3/2018, 19 March 2018, p.3

b) In his email of 16 April 2019, the DPO referred to **Article 2(2) of the EASO Regulation**, which reads: “*The Support Office shall provide effective operational support to Member States subject to particular pressure on their asylum and reception systems, drawing upon all useful resources at its disposal which may include the coordination of resources provided for by Member States under the conditions laid down in this Regulation.*” However, the wording “*under the conditions laid down in this Regulation*” excludes this provision as stand-alone legal basis.

c) During the meeting on 11 June 2019, EASO referred to several provisions as possible (future) legal basis for the processing operation.

Article 9(3) EASO Regulation⁴ states, “*The Support Office shall analyse data on any sudden arrival of large numbers of third country nationals, which may cause particular pressure on asylum and reception systems and ensure the rapid exchange of relevant information amongst Member States and the Commission.*”

The conditions for data analysis activities established in this Article, namely the “sudden arrival of large numbers of third country nationals”, are not met by the current structural and long-term SMM activities of EASO.

In addition, this Article refers to “rapid exchange of relevant information amongst Member States and the Commission”. Unlike EASO’s description and the data protection statement, it thus does not refer to social media monitoring. The monitoring of social media is different from the “*rapid exchange of relevant information amongst Member States and the Commission*”.

Article 9(3) EASO Regulation is thus not a suitable legal basis for the processing operation at hand.

The **future EASO Regulation**⁵ is currently pending for adoption⁶ and can therefore, at any rate, not be a legal basis for the processing operation at hand yet.

- **Article 31 of the future EASO Regulation** is not suitable as stand-alone legal basis, as it refers to Article 4(2) of the future EASO Regulation.
- **Article 4(2) of the future EASO Regulation** states that EASO shall base its analysis on information provided, in particular, by Member States, relevant EU entities, the EEAS as well as UNHCR and other international organizations. This highlights that the source should be a specific *organization* referred to in Article 4(2) of the future EASO Regulation or a comparable organization (“in particular”), not social media in general or “publically available sources”.
Articles 4 and 31 of the future EASO Regulation are thus not a suitable legal basis for the processing operation at hand.
- **Article 30(2) of the future EASO Regulation** (combined with a Management Board decision or not) is not a suitable legal basis for the processing operation at hand, as it refers to implementing data protection rules, not social media monitoring activities.

⁴ The DPIA provided on 28 June 2019 is silent on the legal basis used; the data protection notice provided on 14 June 2019 refers to Article 5(1)(a) of Regulation 2018/1725 and Article 9(3) of Regulation 439/2010.

⁵ See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52016PC0271> and <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:52018PC0633> (amended proposal).

⁶ See <https://eur-lex.europa.eu/legal-content/EN/HIS/?uri=CELEX:52016PC0271>.

None of the three different provisions mentioned by EASO as possible (future) legal basis for the processing operation during the meeting on 11 June 2019 is or will be a suitable legal basis for the processing operation at hand.

The EDPS is therefore of the opinion that EASO has no legal basis to perform social media monitoring of asylum and migration routes, smuggling offers and the discourse among social media community users on key issues (flights, human trafficking and EU+ asylum systems/processes). The collection of information on cross-border crime such as migrants smuggling and human trafficking further falls out of the scope of EASO's mandate.

2. Other data protection aspects

In case EASO would obtain sufficient legal basis to perform social media monitoring and production and dissemination of report for the aforementioned purposes, the following considerations need to be taken into account in order.

2.1 Purpose limitation and data minimization

Personal data needs to be collected for *specified, explicit and legitimate purposes* and be *adequate, relevant and limited* to what is necessary in relation to these purposes. The principles of **purpose limitation and data minimization** imply a transparent and clear definition of a purpose for any data processing operation and the processing (including the collection) of only the personal data necessary to achieve it.

The sample reports provided by EASO state, "*The information was collected for the sole purpose of analyzing the discourse among these communities.*" The establishment of the lawfulness of EASO's SMM activities, including their necessity, needs to take this purpose specification into account (or, if necessary, EASO needs to reassess and reformulate it). The dissemination and use of EASO's analyses in the context of immigration management by Member States and the Commission is not reflected in the current description of the purpose. The sharing of the reports with Interpol raises additional and serious questions with regard to their purpose and scope of application.

The necessity of information collected and analyzed for the purposes described also needs to be evidenced. The sample reports shared by EASO include statements such as "*The Arabic speaking community discussed issues related to a European version of Islam,*" which implies preceding processing of personal data about religious beliefs without the need of such processing being made comprehensible in the report.

2.2 High risks to the fundamental rights of individuals and groups concerned

The processing of personal data from social media - including special categories of personal data, personal data of individuals pertaining to vulnerable groups and personal data potentially related to criminal charges - creates risks to the fundamental rights and freedoms of individuals, including the rights to data protection and privacy, but transcending beyond them and potentially as far as to the right of asylum.

Such risks may relate to the source of information used to produce the reports, as well as their dissemination and use.

Further risks may also stem from the population monitored. Groups of migrants and asylum-seekers are a **vulnerable population**. EASO's monitoring activities subject them to enhanced surveillance due to the mere fact that they are or might become migrants or asylum seekers. In this context, consideration must be given also to the risks stemming from the way in which EASO currently identifies this population. The filtering by language and keywords might lead to assumptions of group behavior that are inaccurate and may enhance risks of **discrimination** (see section 2 on group discrimination).

2.3. Fairness and transparency

Personal data must be processed *lawfully, fairly and in a transparent manner*. The **principles of fairness and transparency** imply that data processing coincides with the expectations of the data subjects concerned sharing their data and that these data subjects are informed or can easily retrieve information about the processing activity. This is currently not the case with regard to EASO's SMM activities.

Users of social media most probably do not expect processing of their personal data by EASO to create SMM reports (**lack of transparency**). The monitored individuals use social media to stay in touch with family and friends and/or to get or share necessary information. Much of the information EASO collects is shared by users with the intention to facilitate movements, while the reports created by EASO contribute to the control of these movements. Social media users monitored for the purposes that EASO's SMM activities imply should be made aware of these purposes, as they are not just not expected by users, but are likely to go counter the intent of their decision to share information (**lack of fairness**). The types of processing activities, including the dissemination and use of the reports in the context of immigration control and by Interpol, and what these processing activities mean or can mean for users and their communities need to be clearly communicated, so they can act in full conscience of this use of the information they provide.

The possible chilling effect on the **freedom of the persons concerned to express their opinion** and, possibly, their **freedom of assembly and association** and this effect's potentially severe implications need to be given due consideration.

In addition, a data protection notice is currently not available on the EASO website. A data protection notice is probably far from the best means to inform migrants about the processing of personal data. The data protection notice is a first step, EASO should explore other channels of information.

Recommendation: The data protection notice should be published on the EASO website as soon as possible in English and in all languages monitored at any given time (see above section 2). Translation requirements should not lead to delays in publishing existing language versions. EASO should in addition explore other channels to inform data subjects.

2.4. Data subjects' rights

The monitored social media users are currently not empowered to exercise their rights as established by applicable data protection law. In addition to the provision of information - which is a precondition for transparency, users' control over their data and the exercising of users' rights - this also includes their **right of access** to personal data about them processed by

EASO and their **right to object** to such processing. Information provided to individuals concerned must contain an explanation of how they can exercise these rights.

2.5. Data Quality

Another risk relating to the source of the information collected stems from the data quality of social media posts. What is posted is not necessarily true or accurate. This is particularly important as EASO's reports contribute to the carrying out of public tasks by Member States and the Commission in the context of immigration control with severe implications for individuals and groups. The sample reports shared by EASO include statements with information allegedly as precise as that *"195 migrants/asylum seekers from Nigeria, who were aiming at crossing to Europe from Libya, returned voluntarily to their home country."* The potential lack of accuracy of information shared on social media needs to be openly communicated and addressed.

2.6. Security

Another risk relates to the **potential misuse** of the information collected and shared. Personal data needs to be processed in a manner that ensures appropriate security of the data, including protection against unauthorized or unlawful processing, using appropriate technical and organizational measures.

2.7. Processing of special categories of personal data

With regard to the processing operations at hand, these measures need to be substantial, as there is a high probability of the processing involving a) **special categories of personal data**, b) **personal data relating to vulnerable groups** at particular risk of discrimination, and c) **personal data potentially relating to criminal offences**, as shown by the sample reports shared.

- a) Personal data which are particularly sensitive in relation to fundamental rights and freedoms merit specific protection. The general prohibition of the processing of special categories of personal data, including, among others, data revealing racial or ethnic origin, political opinions, religious beliefs and health, does not apply for data which are manifestly made public by the data subject. However, in addition to the specific requirements for processing of sensitive data, the general data protection principles and rules do apply, in particular as regards the conditions for lawful processing and the information provided to the data subjects about the processing of their personal data.
- b) As regards the processing of personal data relating to vulnerable groups and individuals and groups at particular risk of discrimination, please see section 2.
- c) The sample reports shared by EASO contain anonymized information about alleged offences as severe as human trafficking and identity fraud, whose production seems to have been preceded by processing of personal data of identifiable individuals allegedly linked to such offences. Where this is the case, due consideration must be given to the risks involved and the data protection framework regulating the processing of personal data related to offences.

<p>Recommendation: In the light of both, on the one hand the highly risky nature of the processing operation at hand, involving special categories of data, and on the other hand the business case</p>
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illustrated during the meeting on 11 June 2019⁷ (including the stated keen interest by Member States for EASO to do social media monitoring), the EDPS suggests as future solution to include specific references allowing explicitly for “social media monitoring” in the future EASO Regulation, e.g. by adding a reference to “publically available sources” in Article 4(2) of the future EASO Regulation or a respective clarification of Article 4(2) of the future EASO Regulation in the recitals and to introduce relevant data protection safeguards to ensure that the processing is fair, transparent, and takes full account of data subjects’ rights. In particular, the types of processing activities and what they mean or can mean for users and their communities need to be clearly communicated.

3. Data subjects concerned / languages monitored

According to information transmitted on 16 April 2019, data subjects belong to the following linguistic communities: Arabic, Pashto, Dari, Urdu, Tigrinya, Amharic, Edo, and Pidgin English. During the telco of 2 May 2019, EASO added Kurdish and Turkish. Based on information provided on 14 June 2019, Amharic is no longer included, but EASO has added Russian, Kurmanji Kurdish, Hausa and French as languages in which they monitor.

The EDPS notes the evolving character of the keyword list referred to during the meeting on 11 June 2019 and the commitment that, according to the data protection notice transmitted on 14 June 2019, “*EASO adheres to strict limitations of the topics it monitors and ensures that its staff are bound by clear instructions and confidentiality obligations*”. The EDPS further welcomes the commitment by EASO in the data protection notice provided on 14 June 2019, which states: “*EASO ensures that adequate and specific safeguards are implemented for the processing of personal data, in line with the applicable data protection legislation.*”

However, this processing operation concerns a vast number of social media users and, given the topics/keywords monitored, those concerned risk being from particularly vulnerable groups (e.g. asylum seekers and refugees).

This is connected to the risk of group discrimination, i.e. a situation in which inferences drawn from SMM can conceivably put a group, as group, at risk, in a way that cannot be covered by ensuring each member’s control over their individual data⁸. Even in a situation where a set of personal data was lawfully obtained through SSM and lawfully processed (see above section 1 on why this is currently not the case), this set of personal data would allow “*the analyst to draw sophisticated inferences – on, say, likely reactions to a certain event, or likely population movements – predicting the behaviour of a group of individual data subjects as a group. Such inferences would be based not on analyzing past individual behaviours in order to predict future individual behaviours, but rather on comparing and contrasting the behaviours of all members of a group, the group having been defined on the basis of one or more shared characteristics*”⁹. Refugee movements have been identified as providing “a ready hypothetical illustration of such dangers”¹⁰, with consequences stretching beyond the group established to societies of origin and of potential destination.

⁷ The DPIA (p. 8) refers to the “overall necessity of the process from 1 (low) to 4 (imperative)” to “3”, i.e. not “imperative”, but above average.

⁸ See Group Privacy: New Challenges of Data Technologies, <https://www.stiftung-nv.de/sites/default/files/group-privacy-2017-authors-draft-manuscript.pdf>, p. 67.

⁹ See also Group Privacy: New Challenges of Data Technologies, p. 67.

¹⁰ See Group Privacy: New Challenges of Data Technologies, p. 68, box 5.

Assumptions about group or societal trends made on the basis of limited, qualitatively analysed data (of non-scientific sources of unguaranteed quality) imply a high risk of error. Consequences of societal scale and consequences for vulnerable groups create a risk case that requires particularly high safeguards.

Recommendation: EASO needs to continuously revise the language and keyword list to ensure data minimization and accuracy, which warrant the appropriate reduction of data subjects and the necessary data quality.
EASO is encouraged to introduce further safeguards to pursue this objective and to address the risk of group discrimination and societal implications stemming from it.

4. The elimination of personal data from EASO's SMM reports

During the meeting of 11 June 2019 and in the DPIA provided on 28 June 2019¹¹, EASO has highlighted the absence of personal data in the SMM reports. In addition, the data protection notice provided on 14 June 2019 notes:

- “No personal data is included in the SMM Reports” in the introductory description of the processing operation;
- “No personal data is included in the SMM Reports” instead of giving a retention period¹²;
- “No personal data is disclosed or transferred” in the section informing about who will receive personal data.

However, during the meeting of 11 June 2019, EASO provided the "weekly" report SMMR 67-19 as a sample. This SMM report contained email addresses and a phone number on p. 13.

In the DPIA provided on 28 June 2019 (p. 11), EASO notes that “*The draft version of the SMM reports is also checked by the DPO (before approval is given for the final version) in order to ensure that no screen shots included in the reports contain any personal data.*”

Recommendation: EASO needs to ensure that EASO staff responsible for compiling the SMM reports are adequately trained to ensure that no personal data is included in the SMM Reports. Whilst the DPO can provide general guidance and possibly training on the matter, it is not his responsibility “*to ensure that no screen shots included in the reports contain any personal data*”.

5. Comments on the DPIA

Generally, many boxes of the template used are relevant, but not filled in (e.g. pp. 2/3 regarding the description of the process). For more detailed comments, please turn to **Annex 2**.

¹¹ See e.g. page 2: “*No personal data is either stored or transmitted*” or p. 3: “*No personal data is included in the SMM reports*” or p. 12: “*All possible data which can be removed/masked is already removed from the Reports*”.

¹² An earlier version of the data protection notice, under the heading “How long will the EASO keep personal data” referred to five years. The DPO in his email of 16 April 2019 noted that “*The social media posts of relevance are saved on the social media platforms during the reporting period only. Once the analysis is carried out, the saved posts are deleted. ...The reports are retained on EASO's servers for a period of five years by default. There is no particular significance to this retention period. Moreover, the reports are also saved on the devices of the team members, and are used for further analyses required for further reports.*”

Recommendation: EASO should use the template to its full potential, filling in all boxes and giving reasoned statements where e.g. a certain likelihood expressed as a rating between 1 and 4 is not self-evident.

Conclusions

In the absence of a legal basis for the processing operation at hand, the EDPS makes use of his **corrective power** under Article 58(2) of the Regulation to impose a **temporary ban** on the processing operation at hand under Article 58(2)(g) of the Regulation.

Considering the risks to individuals' fundamental rights and freedoms posed by social media monitoring performed by EASO the EDPS considers that EASO should rely on an explicit legal basis. The future EASO Regulation should therefore add a reference to "publically available sources".

The EDPS draws the attention of EASO to the fact that, under Article 58(5) of the Regulation, the exercise of the powers conferred on the EDPS pursuant to this Article shall be subject to appropriate safeguards, including effective judicial remedies and due process, set out in Union law.

In addition, the EDPS recommends the following:

- EASO needs to limit the keyword list to necessary search terms and revise the keyword list regularly to ensure such limitation to reduce the number of potential data subjects. EASO is encouraged to introduce further safeguards to pursue this objective.
- EASO needs to ensure that EASO staff responsible for compiling the SMM reports are adequately trained to ensure that no personal data is included in the SMM Reports.
- The data protection notice should be published on the EASO website as soon as possible in English and in all languages monitored at any given time. Translation requirements should not lead to delays in publishing existing language versions.
- EASO should use the DPIA template to its full potential, filling in all boxes and giving reasoned statements where e.g. a certain likelihood expressed as a rating between 1 and 4 is not self-evident.

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In their consultation of 18 December 2018, EASO expressed their intention to base this processing operation on **Arts. 8, 9 and 11 of Regulation (EU) No 439/2010**¹³ (**EASO Regulation**). However, upon examination, the EDPS considers none of these provisions as suitable legal basis:

- **Art. 8:** it is difficult to see how social media monitoring by EASO could qualify as "common action" in the sense of this Article – or how it relates to such "common action".
- **Art. 9(1)** refers to gathering of info by EASO from several sources (Member States, UNHCR and "other relevant organizations" – emphasis added), but not from social media;
- **Art. 9(2)** refers to info *provided by Member States subject to particular pressure*, but not to social media;
- **Art. 9(3)** refers to "rapid exchange of relevant information amongst Member States and the Commission" – thus, unlike EASO's description and the data protection statement, not referring to EU institutions other than the Commission or EU / UN agencies (international transfers) – or social media monitoring (which is not equivalent to "information exchange"). Also, the conditions for data analysis activities established in this Article, namely the "sudden arrival of large numbers of third country nationals", are not met by the current structural and long-term SMM activities of EASO.
- **Art. 11(1)** allows for the *creation of "factual, legal and case-law databases on national, Union and international asylum instrument"*, i.e. not for social media monitoring with the broad purpose of determining "developments and changes in sentiment of targeted audiences (potential asylum seekers, smugglers, human traffickers, document dealers and diaspora)" as you note below.
- **Art. 11(2)** allows for the "gathering of information", but only on the processing of certain applications (a) and national law and *legal* developments (b), i.e. not for the broad purpose of determining "developments and changes in sentiment of targeted audiences (potential asylum seekers, smugglers, human traffickers, document dealers and diaspora)" referred to below.

¹³ <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:132:0011:0028:EN:PDF>

Detailed comments on the DPIA

- The DPIA does not mention the tool used to monitor social media, how it works or how it is configured.
- There is also no information about (a) the volume of posts being retrieved by the tool, (b) how many posts are being processed by the EASO analysts (who "translate these posts directly and mentally into English and transcribe d without the use of any IT tool"), (c) how they write their report (according to DPIA, it seems that this is done "on-the-spot", which raises the question of how they can identify trends under such circumstances and differentiate between what is relevant from what is not?).
- p. 8: *"In light of high level EU political statements and the EU's narrative on combatting abuses to the CEAS, it can reasonably be expected by the data subjects that such public information and posts are used by EASO and other EU institutions"*. Given the population of targeted social media users and their mostly non-EU origin (judging from the languages monitored), it is not clear how an "EU narrative" should have reached these data subjects. Given the absence of a legal basis (see section 1 above), reasonable expectations regarding social media monitoring by EASO are unlikely to exist.
- p. 6: **"Data subjects are not immediately aware of the processing operation" - likelihood: "3"**. This contradicts the above statement on p. 8. In addition, it is unclear how this likelihood has been determined and it is not obvious how data subjects could be aware (the vast number of potential data subjects, see section 2, seems unlikely to regularly visit the EASO website). It is equally unclear how the "impact" of this has been established to amount to "2".
- p. 9: **"Could this operation decrease the likelihood that people exercise their fundamental rights..."**: The example given in the template indicates that the monitoring activity impacts on the exercise of fundamental rights. The "N" is consequently not explicable.
- p. 9: **"Could this processing operation lead to discrimination?"**: The "N" is not explicable given the risk of group discrimination (see above section 2).
- p. 9: **"Is it easy for people to exercise their rights to access, rectification, erasure, etc.?"**: given that the data protection notice is unlikely to be familiar to the majority of data subjects (see above) and does not refer to any specific data subject rights (but instead only refers to "Exercising your rights"), the assessment "Y" is not explicable.
- p.2: "No personal data is either stored or transmitted": What about the screenshots? How do EASO analysts select the screenshots which are interesting for the report if they delete the post immediately?
- p. 2, section "Where do we keep it?": "The cached memory of the web browsers...is deleted at the end of every week". How often are the SMM report produced? On a weekly basis as well?

- p. 1, section “What personal data do we collect?”: The reference to “occasionally” regarding personal characteristics without mentioning “language” is misleading, as the language seems a piece of information that is likely to be collected (and not only “occasionally”);
- p. 2, top box: The notion of “stakeholders” (last word) should be clarified - are these the recipients listed in the DPO’s email of 16 April 2019¹⁴?

¹⁴ “SMM reports are shared with four categories of recipients:

- EASO staff members (who have official EASO email addresses)
- EU Institutions and Agencies, namely: EC, EUROPOL, FRONTEX, EEAS, EUROPARL, EUROJUST, EU Council, JRC, SATCEN, FRA.
- EU+ Authorities: DE, UK, BE, DK, AU, MT, S, LU, F, CH, NL, IS, RO, NO, IT, EE, EL, PT, IE, CY, ES, SK, PL, HU, FI, SI, CZ, HR. The authorities are mainly ministries and asylum agencies.
- Specific and relevant International Organizations: UNHCR, IGC, IOM, and INTERPOL. EASO does not envisage expanding the list of recipients to other International Organizations.”