COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.2.2008
SEC(2008) 154

COMMISSION STAFF WORKING DOCUMENT

Accompanying document to the

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

Preparing the next steps in border management in the European Union

SUMMARY OF THE IMPACT ASSESSMENT

{COM(2008) 69 final}
{SEC(2008) 153}

EN   EN

1.   **INTRODUCTION**

The Impact Assessment on the creation of an entry/exit system at the external borders of the European Union and on facilitating border crossings for bona fide travellers is based on data collected from interviews as well as from case studies, pilot projects and literature reviews. Interviews were mainly held with experts with regard to the already existing systems in the Member States. The data-gathering and a large part of the consultations with relevant authorities in the Member States were undertaken through two external studies ordered by the Commission in December 2006 and June 2007. The external studies and this report have been drafted with input from numerous contacts between the Directorate-General for Justice, Freedom and Security and the contractors. An inter-service meeting with other services including Legal Service (SJ), Taxation and Customs Union (TAXUD), Fisheries and Maritime Affairs (FISH), Enterprise and Industry (ENTR) and External Relations (RELEX) was held in November 2007. In addition, it should be noted that DG TREN formed part of the steering committee for the external study and was involved in the process already from the very beginning.

The Impact Assessment was revised to take into account the opinion issued by the Impact Assessment Board on 4 and 14 December 2007.

2.   **STATE OF PLAY AND PROBLEMS**

The passenger flows at the external borders of the European Union have been growing and will continue to increase in the future. Most of the passengers are so called bona fide travellers and are granted entry in compliance with the existing Regulations and rules; but there are also serious crimes closely related to cross border movements of people: travel document and identity fraud, people smuggling, human trafficking and terrorism. Illegal immigration into EU poses a challenge to every Member States.

Two objectives, that may appear contradictory, must therefore be met: on the one hand, the bona fide passengers should be ensured a smooth border crossing and on the other hand, the internal security of the Schengen area should be guaranteed.

There are in the order of 300[1] million EU-27 external border crossings per annum at designated border crossing points. It is estimated that 160 million of these border crossings are made by EU citizens, 60 million by third country nationals (TCN) not requiring a visa and 80 million by TCN requiring visas.

---

[1]   Own calculation from Eurostat database on tourism. The number is based on the estimates of overnight stays in hotel, collective accommodation establishment or in private tourism accommodation. People staying with friends and relatives are not counted. Overnight stays are registered by country of residence of the travellers.

It is estimated that there were up to 8 million illegal immigrants within the EU in 2006. It is likely that over half of illegal immigrants entered the EU legally but become illegal due to overstaying their right to stay.

The passport of every TCN should be manually stamped when she/he enters and exits the Schengen area. The time a third country national has spent in the area of the Member States is calculated based on these stamps, which are however often difficult to interpret; they may be illegible or the target of counterfeiting. Exact calculation of time spent in the Schengen area on the basis of stamps in the travel documents is thus both time-consuming and difficult. In addition, there is no record of the time spent in the Schengen area for TCN. Due to these reasons, at the moment there are no easy manageable and reliable means of determining if a TCN has overstayed his/her right to stay; no consistent record of entries and exits of travellers to and from the Schengen area, which could help to improve border management, security and planning; and no possibility to gather information on overstayers.

In this context, the main problems identified in the current situation are:

(a)   illegal immigration,

(b)   terrorism and serious crime,

(c)   data gap,

(d)   growing pressure of passenger flows and

(e)   the challenges of economic migration.

3.   POLICY OBJECTIVES

The general objectives of the entry/exit system are, in order of priority:

- To reduce illegal immigration (especially overstayers);

- To contribute to the fight against terrorism and serious crime;

- To improve the effective management of economic migration (for example, seasonal workers).

The general objectives of the Registered Traveller Programme are, in order of priority:

- To facilitate the crossing of EU external borders for bona fide travellers, while ensuring overall coherence of EU border policy;

- To improve the effective management of economic migration (for example, seasonal workers).

Specific and operational policy objectives have been elaborated for each of the above-mentioned objectives.

4. POLICY OPTIONS

Five different options have been identified:

Option 1: Status Quo

A status quo policy option needs to reflect a large number of important developments that are underway such as the use of electronic travel document and the full implementation of the VIS. Also a substantial improvement in infrastructure for managing cross border flows are anticipated to occur.

Option 2: Entry/exit system

This option would involve the recording of the time and place of entry and exit of TCN crossing the EU external border. Improved information would be generated on the cross border flows of TCN. Such information could be used to detect and review the situation of overstayers. The data would also be useful in planning the use of border control and migration management resources. This option consists of two sub policy options; entry/exit system for TCN requiring visas (2a) and entry/exit system for TCN not requiring visas (2b).

Option 3: Measures for facilitating cross border flows

This policy option could take several forms, and be applied to different categories of travellers. Three sub policy options have been chosen so that the Impact Assessment process can assess the implications of the main differences that could apply. The sub policy option of a Registered Traveller Programme for TCN (3a) would be, in part, a response to the additional constraints and implications for cross border travel that the entry/exit system could impose. TCN granted the Registered Traveller Status would benefit from quicker automated controls. The assessment of the two sub policy options relating to EU citizens illustrates the differences in approach between establishing a single EU wide system (3b) and establishing minimum standards for the development of a number of systems (3c) tailored to the needs of particular border crossings and groups of EU travellers (e.g. both Registered Traveller Schemes and Automated Border Control).

Two other policy options introducing various obligations on migrants to confirm return to the country of origin, and possibly combined with a bond system, were considered but eliminated. These options were too wide and complex - both in the political sense and with regard to practical implementation - to be carried out in the medium-term. In the future, these alternatives might be reflected again in a larger context as a part of wider policy considerations for the management of economic migration and international development.

In addition, several technical options for the entry/exit system for TCN were considered but the assessment has focussed on a system that makes use of the developments that are taking place in the status quo and in particular the VIS.

5. **COMPARISON OF THE POLICY OPTIONS**

Policy options were assessed against general, specific and operational objectives as well as against other relevant criteria such as robustness in the light of substantive and policy changes, and impacts on fundamental rights, particularly privacy and data protection.

The table 1 and 2 below indicate the assessment of the status quo and comparative assessment of other policy options and sub options against general objectives of the entry/exit system and Registered Traveller Programme.

Table 1 – Assessment of the status quo

Policy Option (Anticipated impacts rated from – (negative contribution to objective) to √√√√ (full achievement of objective)	
Objective *to be achieved/ problem addressed*	**Policy option 1 (status quo)**
Policy objective: To reduce illegal immigration (especially overstayers)	√√
Policy objective: To facilitate crossings of EU external borders for bona fide travellers, ensuring overall coherence of EU border policy	-
Policy objective: To contribute to the fight against terrorism and serious crime	√
Policy objective: To improve the effective management of economic migration (for example seasonal workers)	√
Relative costs	NA

Note: Status quo has been assessed against the current situation.

Table 2 – Comparative assessment of other policy options and sub options (2a – 3c)

Comparative assessment of policy options and sub options					
Policy Options (Anticipated impacts rated from – (negative contribution to objective) to √√√√ (full achievement of objective)					
Objective *to be achieved/ problem addressed*	**Policy option 2a**	**Policy option 2b**	**Policy option 3a**	**Policy option 3b**	**Policy option 3c**
Policy objective: To reduce illegal immigration (especially overstayers)	√√	√√√	√	√	√
Policy objective: To facilitate crossings of EU external borders for bona fide travellers, ensuring overall coherence of EU border policy	√	-/0	√√√	√√	√
Policy objective: To contribute to the fight against terrorism and serious crime	0/√	√	-	-	-
Policy objective: To improve the effective management of economic migration (for example seasonal workers)	√√	√	√	0/√	0/√
Relative costs[2]	Low	Medium	Low-Medium	Medium	Low
Preferred option	√	√	√		√

Note: The baseline situation against which the ratings are made assumes the successful implementation of the status quo (table 1). Other policy options (2a-3c) have been assessed against this option. As an example, the policy option 2a is two ticks (√√=medium impact) more effective "to reduce illegal immigration (especially overstayers)" than the baseline.

Note: Policy option 2a=Entry/exit for TCN requiring visas; 2b=Entry/exit for TCN not requiring visas; 3a=Registered Traveller Programme available to TCN; 3b=Harmonised Registered Traveller Programme available to EU citizens; 3c=Minimum standards are established for Registered Traveller schemes and Automated Border Control system for EU citizens.

The preferred option

Based on the assessments, those policy options were chosen that can meet the objectives and realistically be expected to be implemented in the short-medium term, with respect to fundamental rights and data protection.

The preferred option is thus a combination of an entry/exit system for all third country nationals (sub policy option 2a and 2b), Registered Traveller Programme for third country nationals (sub policy option 3a) and minimum standards for

---

[2] The costs of technical implementation will be presented in a separate Commission staff working paper on technical options in the beginning of 2008.

Registered Traveller Schemes and Automated Border Control System for EU citizens (sub policy option 3 c).

The preferred option generates benefits and contributes to the achievement of the objectives, even though the potential with respect to reducing terrorism and serious crime is not significant. However, the preferred option is highly dependent upon the success of the implementation of the status quo.

From the technical perspective concerning the entry/exit system, the VIS and the SIS II pursue different objectives and thus comprehensive synergies cannot effectively be applied in this context, although technical synergies could be found. The VIS system could be used for the purposes of the entry/exit system for registering the entry and exit data of TCN requiring a visa, as well as in verifying the biometric identifiers. Regarding TCN not requiring a visa, at least partially separate systems would be required, but which could build on the same technical platform as the VIS and use the same Biometric Matching System (BMS). This would allow for exploiting synergies with existing biometric systems, keeping costs low and ensuring interoperability.

As for the Registered Traveller Programme, a separate data store will be required. It is possible to construct one single centralised entry/exit system and Registered Traveller Programme database; thus in any case, only one new database would be needed. The Commission will present a separate Commission Staff Working Paper on technical options of the entry/exit system and the Registered Traveller Programme in the beginning of 2008.

In accordance with the draft final report of the entry/exit technical feasibility study the estimated costs of the centralised entry/exit and Registered Traveller Programme system would be approximately 20 million euro, spread out over 2-3 years and the annual maintenance and operational costs approximately 6 million euro. The costs across all Member States would be approximately 35 million euro, but could vary greatly depending on the number of automated gates that would be implemented. One automated gate unit costs approximately 35.000 euro. External Borders Fund could support Member States in relation to purchasing necessary equipment. For third countries no costs would occur.

6. **MONITORING AND EVALUATION**

The impact assessment indicates potential indicators to monitor the extent to which the specific and operational policy objectives have been met. The main information sources are the databases of the entry/exit system and Registered Traveller Programmes.