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DIRECTORATE-GENERAL HOME AFFAIRS

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Directorate General

Home Affairs

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INTRODUCTION

Over the past decade, justice and home affairs policies have reached maturity. To mark this development, separate portfolios were created under the Barroso II Commission for the justice and home affairs area, with a Commissioner for home affairs and a Commissioner for justice, fundamental rights and citizenship. On 1 July 2010, this division of portfolios was matched by the split into two of the Directorate-General for Justice, Freedom and Security, resulting in the creation of a Directorate-General for Home Affairs and another Directorate-General for Justice. This more closely reflects arrangements in the Member States where responsibility for internal affairs and justice is usually split between departments.

1. POLICY ACHIEVEMENTS

General

The adoption of the Communication on the **Action Plan implementing the Stockholm Programme** 'Delivering an area of freedom, security and justice for Europe's citizens' in April and of the **EU Internal Security Strategy in Action** in November, both strategic initiatives in the Commission Work Programme 2010, constitute the most important policy developments in the area of home affairs in 2010. The Action Plan aims at delivering the priorities set by the Stockholm Programme both at European and global level for the European area of freedom, security and justice during the next five years. The Internal Security Strategy comprises 5 strategic objectives and 41 related actions targeting the most urgent security threats facing Europe.

In addition, the entry into force of the Lisbon Treaty brought full competence of the Court in the justice and home affairs area (subject to one limitation) including a general regime for infringements and preliminary rulings, and modified the framework for the Commission's exercise of the implementing powers.

ABB Activity: 1802 Solidarity – external borders, visa policy and free movement of persons

Free movement of persons

Further progress has been made in 2010 in establishing an area of free movement in which persons can cross internal borders without being submitted to border checks. The revised proposal on a modified Schengen evaluation mechanism, necessitated by the entry into force of the Treaty of Lisbon, is of particular importance. In addition, the Commission presented its report on internal borders, followed up complaints of persons who were checked when crossing internal borders and contributed to the benchmark judgement of the European Court of Justice in this field ("Melki").

Integrated external borders management system

Partial progress was made in 2010 towards an **integrated external border management system** with the adoption by the Commission of a proposal to amend the Frontex Regulation and its opinion on the Frontex work programme. The proposals for setting up an Entry/Exit System and a Registered Traveller Programme were delayed and will be

adopted in 2011 as part of the strategic package on "**smart borders**". This delay is due to the need to prepare sound impact assessments to accompany these proposals, as requested by both the European Parliament and the Council. Work on these impact assessments was therefore a priority in 2010. The 2nd report on the local border traffic and the report on Eurosur were also delayed until the beginning of 2011. The 2nd report on the **local border traffic** was delayed due to the late submission of input by Member States and the report on **Eurosur** was delayed due to the change of priorities at the end of the year with the deployment of Rapid Border Intervention Teams at the Greek border and the necessary assistance given by the Commission services. Despite this slight reporting delay, work on the establishment of Eurosur continued successfully.

The **Frontex Agency** continued to contribute successfully to the operational management of the EU's external borders. For example, the total number of days of joint operations has gone up to 6,286 days in 2010 compared to 5,086 in 2009. However, the diverging trends in the apprehension of illegal immigrants (in 2009: 572,295 apprehensions compared to 612,635 apprehensions in 2008, 467,501 in 2007 and 516,195 in 2006) show the complexity of the issues at stake.

Large-scale IT systems

The 2010 work programme for the development of the **Visa Information System** was fully implemented. However, the risk of further delays in future cannot be totally excluded, as long as all test phases have not been completed.

The System Solution Test was successfully completed in the first quarter of 2010 and the Operational System Test started on 23 August 2010 and ended on 14 February 2011. These tests were satisfactory. In agreement with the Member State experts, the Commission decided to grant to the Main Development Contractor a remediation period until 16 March 2011 in order to solve the few outstanding issues, which would allow the acceptance of this testing phase. This does not impact the start of the fourth and final testing phase in March 2011, for which preparatory activities are currently taking place with Member States.

With regard to the **Schengen Information System II** project, the JHA Council conclusions of 4-5 June 2009 confirmed its support for continuing the project on the basis of the SIS II technical solution, subject to the successful accomplishment of two technical milestones. The JHA Council of April 2010 supported the further continuation of work on the SIS II technical solution, following the successful outcome of the Milestone 1 test completed in the first quarter of 2010. The Milestone 2 test is planned for the first quarter of 2012. A detailed schedule and budget for the completion of the SIS II project was presented to the JHA Council of 7-8 October 2010 which reaffirmed that the entry into operation of SIS II (foreseen for the first quarter of 2013) remains an absolute priority.

Finally, the aim of having the **IT-Agency** legally established and becoming operational in 2011 was delayed for reasons beyond the Commission's control. On the one hand, a political agreement on the legislative instrument could not be achieved by the outgoing BE Presidency and, on the other hand, the negotiations between Estonia and France, the two candidates for the seat of the Agency, delayed the adoption of a respective decision in the Council. The working assumption at this stage is that the legal act will be adopted

by the end of the second quarter of 2011. The Agency could start being operational at the end of 2012.

Return

With the aim of promoting an **effective return policy**, the Commission organised several meetings of the Contact Committee on return, which will contribute to a coherent and efficient transposition of the directive on common standards and procedures in Member States for returning illegally staying third country nationals.

Policy developments in the area of external borders and free movement of persons continued to be supported by the External Borders Fund and European Return Fund. The draft report on the application of the criteria for the annual breakdown of the Fund's resources between the Member States was prepared at the end of 2010 and will be finalised in January 2011. The mid-term reviews of the implementation of these Funds were delayed due to the late submission by Member States of their national contributions and the subsequent work of compiling and analysing these contributions, and will be published in 2011.

ABB Activity: 1803 Migration flows – common immigration and asylum policies

Overall progress in **effective immigration and integration policies** has been mixed and influenced by new challenges. In the context of the financial and economic crisis the goal of approximation in the level of employment of third country nationals compared to the EU population was even more difficult to achieve. In 2010, the unemployment rate in the EU for third-country nationals amounted to 18.8% (18.9 in 2009), compared to 8.9% for nationals (8.4% in 2009).

In May, the Commission presented the First Annual Report on Immigration and Asylum (2009) using contributions from Member States and factual information from various other sources, in particular the European Migration Network. On the basis of this Report, Council conclusions were agreed and subsequently endorsed by the June 2010 European Council.

Legal migration

As part of the continued implementation of the 2005 Policy Plan on Legal Migration, the Commission presented in July **legislative proposals for directives on the conditions of entry and stay of seasonal workers and intra-corporate transferees**. The proposal for a directive on seasonal workers aims at establishing common entry and residence conditions for this category of workers from third-countries as well as giving them a secure legal status and protection against exploitation. The second proposal sets out common procedures to regulate the entry into, temporary stay and residence in the EU of intra-corporate transferees to make it easier for multinational companies to temporarily transfer third-country national skilled workers to branches or subsidiaries in EU Member States. The publication of a **green paper on family reunification** was postponed to better prepare it.

Following the entry into force of the Lisbon Treaty, discussions continued in the European Parliament and in Council during 2010 on the Directive on a **single**

application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights. In addition, evaluation work continued with a view to presenting in 2011 reports on the implementation of the Directives on long term residents, students, and researchers. The Commission also adopted the implementation report on Directive 2004/81/EC on **residence permits for victims of trafficking** which concluded that the Directive is not used to its full potential.

In the **Action Plan on Unaccompanied Minors (2010-2014)** adopted in May, the Commission puts forward a common EU approach based on the principle of the best interest of the child and identified main strands for action such as prevention, reception and identification of durable solutions. On the basis of the Action Plan, Council conclusions on unaccompanied minors were adopted in June.

The **European Migration Network (EMN)** continued to provide up-to-date, objective, reliable and comparable information to support and inform policymaking. The EMN produced *inter alia* Annual Policy and Statistics Reports, studies on Unaccompanied Minors, non-EU harmonised Protection Statuses and Assisted Return. It also undertook studies on Satisfying Labour Demand through Migration and on Circular and Temporary Migration. Its Ad-Hoc Query mechanism was extensively used to request information on a broad range of asylum and migration related topics. There were 99 such queries in 2010 with on average 16 Member State responses to each, i.e. over 1600 individual responses from the EMN National Contact Points. Work continued on the multilingual glossary and associated thesaurus. In addition to regular meetings and workshops on specific topics, an EMN Conference on "Long-Term Follow-Up of Migrants' Trajectories" was organised under the auspices of the Belgian Presidency.

Work on the **EU Immigration Portal** also continued throughout 2010.

Integration

Two meetings were held of the **European Integration Forum** which brought together around 100 participants from civil society organisations working on integration at EU and national level.

The **European Web Site on Integration (EWSI)** continued to develop a European integration community of policy-makers and practitioners by providing news items, links, and events related to the successful integration of third-country nationals. At the end of 2010, more than 1100 members had registered on the EWSI; more than 2800 documents, 440 good practices, 1350 news items, 2200 links and 600 events had been uploaded onto the website.

The third edition of the **Handbook on Integration** was launched at the occasion of the ministerial conference on integration in Zaragoza in April 2010. In March the Commission adopted a **Report on the consolidation of the EU framework on integration**.

In addition, the Commission launched a **pilot project on indicators** for monitoring the results of integration policies. In cooperation with Member States work started on **European modules** to support integration policies and practices in the EU. Four meetings of the **National Contact Points on Integration** took place in 2010.

Asylum and EURODAC

Provisional data indicate that in 2010, Member States received about 250,000 asylum applications, a decrease of 3.5% from the previous year. The average percentage of positive decisions in first instance remained stable (ranging between 25-28%). 2 new infringement procedures were opened, 2 were continued and 6 were closed during the year. About 220 beneficiaries of international protection were relocated from Malta to other Member States and Member States pledged to resettle almost 2,500 refugees under the ERF specific categories (2011 budget). A new Regional Protection Programme started to be implemented in the Horn of Africa region and another one was designated for North-eastern Africa.

In 2010, the Commission was actively engaged in the negotiations on the legislative proposals of the **asylum package** presented by the Commission in 2008 and 2009. The Regulation establishing the **European Asylum Support Office (EASO)** was formally adopted in May 2010 and entered into force in June 2010. Since then, significant energy and resources have been dedicated to setting up the EASO. The Commission also organised several workshops of the EURASIL network and has developed together with Member States and UNHCR the Country-of-Origin Information Portal, which will be transferred to the EASO in 2011.

Despite a difficult political context, progress was made in 2010 on the discussions of other proposals (**Dublin and Eurodac Regulations**, as well as on the **Qualification Directive**), although negotiations were blocked on the **Reception Conditions and Procedures Directives**. A positive development was the resumption of the negotiations and agreement between co-legislators on the extension of the **Long-term Residents Directive** to beneficiaries of international protection. The Commission adopted reports on the application of the Qualification and Asylum Procedures Directives. Both reports confirmed that the amendments proposed by the Commission to those instruments were necessary to reach the objectives of the Common European Asylum System.

Solidarity was another important issue throughout 2010. The **EU pilot project for the relocation of about 250 beneficiaries of international protection** from Malta to ten other Member States continued to be implemented with financial support from the European Refugee Fund. Greece started the overhaul of its asylum and migration system and received commitments of support from the Commission, the Member States, Norway and the UNHCR in the form of material and human resources as well as financing. The Commission was actively involved in coordinating these offers of support.

Progress was made in the negotiations on the creation of a **Joint EU Resettlement Programme** but divergences of approach on decision-making procedures prevented the formal adoption of the Programme and the establishment of new common geographical resettlement priorities for 2011. Existing **Regional Protection Programmes (RPPs)** in Tanzania and Eastern Europe continued; the implementation of a new RPP in the Horn of Africa region started in September, in close cooperation with the UNHCR and work advanced on the development of another RPP in North-Eastern Africa.

The 2009 **EURODAC** annual report was also published in 2010. The existing EURODAC system ensured business continuity and an adequate level of IT services to the Member States and Associated Countries throughout the year. Furthermore, the

contract for the EURODAC + project (upgrade of the EURODAC IT infrastructure) was closely monitored with a view to finalising the project by the end of the first quarter of 2011.

The migration flows, common immigration and asylum policies were supported by the European Fund for Integration of Third-Country Nationals and the European Refugee Fund.

Visa Policy

During 2010, further progress was made in the development of the EU "acquis" on short stay visas. In relation to the revision of Regulation 539/2001 (visa lists), the European Parliament and Council adopted in November a modification of the Regulation **abolishing the visa obligation for citizens of Albania and Bosnia-Herzegovina** and in December for citizens of **Taiwan**.

The **Community Code on Visas**, which sets out conditions and procedures for processing applications for short stay visas, became applicable in April 2010. In view of ensuring a harmonised implementation of the Visa Code the Commission adopted two Decisions in accordance with a comitology procedure providing operational instructions: a Decision establishing The Handbook for the processing of visa applications and the modification of issued visa (March 2010) and a Decision establishing the Handbook for the organisation of visa sections and local Schengen cooperation (June 2010). Via EU Delegations (as stipulated in the Visa Code), the Commission also took up a coordinating role in the local Schengen cooperation world wide in order to ensure a harmonised application of the common visa policy. However, this involvement is yet to be further developed.

In addition, in March 2010 the European Parliament and the Council adopted Regulation 265/2010 on the **freedom of movement with a long-stay visa** (applicable since April 2010), giving holders of long-stay visas the right of free circulation in the Schengen area.

In the area of **document security** the Commission adopted a decision on 27 January 2010 upgrading the security features of the visa sticker (UV printing, Kinegram 1D, multi colour fibres). These specifications are to be implemented by 27 January 2012. Concerning the security features established for Passports and residence permits draft Commission decisions introducing in the existing rules clarifications around fingerprint quality and enhancement of protection against unauthorised data access were presented to the Article 6 Committee. They received a positive opinion from the Committee in late 2010 and will be adopted by the Commission in early 2011.

In relation to the implementation of the **Visa Information System**, the Decision determining the second set of regions for the gradual VIS roll-out was initially planned for adoption in 2010 but following the rescheduling of the VIS go-live and in order to be in a position to make use of the most recent available data the adoption of the decision was postponed to 2011.

In November 2010, the Commission adopted its **6th visa reciprocity report**, which shows that further progress towards full visa reciprocity has been achieved and that only very few cases of non-reciprocity remain with the US and Canada. With regard to the Czech Republic-Canada visa issue, this reciprocity report stated that Canada has met the

two conditions set by the Commission in its ad-hoc report of October 2009 and that further progress was achieved in the implementation of the agreed path of measures towards restoration of the visa-free travel for Czech citizens. In relation to the publication by the US of the interim rule on ESTA fee in August 2010, the Commission submitted written comments on this interim rule in October 2010 in the framework of a public consultation procedure launched by the US. As regards the future development of the visa policy, the final version of the EU ESTA feasibility study commissioned by the Commission was received in December 2010.

At bilateral level, the visa waiver agreements with the six "micro" states (Antigua and Barbuda, Barbados, Mauritius, the Bahamas, Saint Kitts and Nevis and the Seychelles), which had been applicable provisionally since 28 May 2009, formally entered into force at the start of 2010.

Further to the completion of the **negotiations between Brazil and the European Union on the visa waiver agreement** for ordinary passport holders and on the visa waiver agreement for diplomatic and service passport holders, the parties initialled the texts of these agreements at the end of April 2010 and signed the agreements on 8 November 2010. The ratification procedure on the EU side is to be finalised in February 2011.

The Commission has continued the **monitoring of the Visa Facilitation Agreements** in place with Russia, Ukraine, Moldova and the five Western Balkan countries. In addition, negotiations continued with Cape Verde on new Visa Facilitation Agreements and in June 2010, the visa facilitation agreement with Georgia was signed. Furthermore, on 29 October, the Commission presented recommendations in view of obtaining negotiating directives for the renegotiation of the existing visa facilitation agreements with Russia, Ukraine and Moldova and on 12 November a recommendation in view of obtaining negotiating directives for negotiating a visa facilitation agreement with Belarus, to be adopted "once the relevant conditions are met".

ABB Activity: 1805 Security and safeguarding liberties

The most important event of 2010 in the area of internal security was the adoption on 22 November of the Commission's "**EU Internal Security Strategy in Action**", one of the strategic initiatives in the Commission's 2010 Work Programme. The Strategy builds on the Internal Security Strategy ("Towards a European Security Model") adopted by the Council in February 2010 and comprises 5 strategic objectives and 41 related actions targeting the most urgent security threats facing Europe.

Fight against terrorism

In 2010, there have been three main achievements in the counter-terrorism field. As announced by Commissioner Malmström during her hearing in the European Parliament in February, the Commission presented in July a **Communication taking stock of the main achievements under the 2005 EU Counter-terrorism strategy**. The Communication outlines future challenges and laid the foundation for the aforementioned Internal Security Strategy.

A new **agreement on the processing and transfer of financial messaging data from the EU to the US** for the purposes of the Terrorist Finance Tracking Programme (EU-US TFTP Agreement) was concluded on 13 July. The agreement entered into force on 1

August 2010 and holds out the longer-term prospective of the establishment within the EU of an EU system equivalent to the TFTP, implying a more targeted transfer of data in the future and allowing for the extraction of data to take place on EU soil. It contains guarantees that ensure protection of EU citizens' data, while enabling U.S. and EU law enforcement authorities to make use of a paramount tool in the fight against terrorism. Through the leads that will be provided back to EU law enforcement authorities, this agreement should contribute to more rapid investigations and thus to reducing further the volume of terrorism in the EU.

On 29 September, the Commission adopted a regulation to limit the **access by the general public to certain chemicals** ("precursors") that can be misused to produce home-made explosives for terrorist attacks, thus diminishing a serious terrorist threat, enhancing EU citizens' perception of security and creating a level playing field for the producers and retailers of such chemicals.

Fight against organised crime

The main achievements in the area of the fight against organised crime concerned the adoption by the Commission in March of two proposals for Directives on preventing **trafficking in human beings** and protecting victims and on the fight against **child sex exploitation** and child pornography. Both proposals approximate substantive criminal law and bring robust provisions on protection of and support to victims. Political agreement between all institutions was reached on the Directive on preventing **trafficking in human beings** and protecting victims in December. Both instruments - when implemented- will contribute to increasing the number of convictions for trafficking in human beings and for sexual exploitation of children. With these instruments, EU standards are aligned to the highest international standards.

Another important step was the adoption by the Commission in September of a proposal for a directive on **attacks against information systems**. By taking account of new criminal phenomena and technological developments, and incorporating a more comprehensive legal framework, the proposal will help to secure a high level of protection of information systems against criminal attacks.

With these three proposals, the Commission has started the process of "Lisbonising" key former third pillar instruments. Modernising these instruments and turning them into Directives will allow for a better protection of EU citizens, swifter cross border law enforcement co-operation, thus forging a common European law enforcement culture, and disrupting important criminal markets.

Although scheduled for adoption in 2010, the Communication on a comprehensive **EU policy against corruption**, the Commission decision on establishing a mechanism for periodic evaluation of progress in the fight against corruption and the Implementation report on Council Framework Decision 2003/568/JHA on combating corruption in the private sector were postponed to 2011, when they will be adopted as part of a package dealing with the protection of the licit economy. This is also the case for the Implementation report on Council Decision 2007/845/JHA concerning cooperation between the **Asset Recovery Offices** of the Member States in the field of tracing and identification of proceeds from or other property related to crime, which will be adopted in the spring of 2011.

Police co-operation and access to information

On 21 September, the Commission adopted a "**PNR package**" (Passenger Name Record data) consisting of a Communication on the EU external PNR strategy and three recommendations for negotiating directives for new PNR agreements with the United States, Australia and Canada. The Council authorised the Commission to open negotiations with these countries on 2 December.

PNR data has proven to be an important tool in the fight against serious transnational crime and terrorism. The number of third countries that use PNR data is constantly growing. Law enforcement authorities can use data provided by a passenger during the flight booking to investigate past crimes, prevent new ones and perform risk analyses. The EU external PNR strategy sets out the general policy on a common EU approach to the use of PNR data, and on main provisions for exchange of PNR data with third countries that ensure high standards for personal data protection.

Moreover, by adopting a proposal for a Regulation implementing Article 10 of the **United Nations' Firearms Protocol (UNFP)** on 31 May, the Commission took a step closer towards the ratification of the Protocol. The proposal addresses export authorisation and import and transit measures for firearms for civilian use. This was followed on 30 July by the presentation of the "**Overview of information management in the area of freedom, security and justice**". The overview covers existing EU instruments regulating the collection, storage or exchange of personal data for the purpose of law enforcement or migration management and clarifies the main purposes of these instruments, their structure, the types of personal data they cover, the list of authorities that have access to such data and the provisions governing data protection and retention.

On 17 December, the Commission presented a Communication on the procedures for the **scrutiny of Europol's activities** by the European Parliament, together with national Parliaments. In addition, all necessary Implementing Rules deriving from the Council Decision establishing Europol were adopted.

Throughout the year, the Commission also continued to assist the Member States in the implementation of existing legal instruments through seminars and co-financing of related projects. Work started on the preparation of the reports on the implementation of the Swedish Initiative and the Data retention Directive which are scheduled to be adopted in early 2011.

Throughout 2010, the policies in the area of internal security were supported by the Specific Programmes "Prevention, preparedness and consequence management of terrorism and other security related risks" and "Prevention of and fight against crime". The preliminary results of the mid-term evaluations of the programmes (to be published in 2011) suggest that there is likely to be a continued demand for EU support in the areas covered by the programmes and that they are likely to achieve their goals by the end of the current programming period (2013).

ABB Activity: 1881 Policy strategy and coordination

External Relations

The external dimension of justice and home affairs policies continued to be a dynamic policy field in 2010 with a number of important achievements. Notably, political dialogues with third countries were developed, new readmission agreements signed and implemented, mobility partnerships with third countries agreed and implemented and strategic partnerships developed (cf. below). A migration mission to Ukraine took place in September 2010; whereas the migration mission to Cameroun was postponed to February 2011.

As regards **candidate countries and countries with a European perspective**, the already intensive cooperation was further pursued in 2010 with a view to furthering their approximation to the EU. The Commission monitored the continuous implementation of the commitments under the visa liberalisation dialogue by Serbia, the former Yugoslav Republic of Macedonia and Montenegro whose citizens can travel visa-free to the EU since December 2009. Moreover, the visa liberalisation dialogue with Albania and Bosnia and Herzegovina was further pursued, leading to visa liberalisation for citizens of those countries as of December 2010. Good progress was made in the accession negotiations with Croatia regarding chapter 24 (justice, freedom and security) resulting in the provisional closure of chapter 24 in December 2010. As regards Turkey, important progress was made in the negotiations for an EU-Turkey readmission agreement, which is likely to be signed in early 2011.

As regards the countries of the **European Neighbourhood Policy**, considerable progress was made, notably with the countries of the **Eastern Partnership**. A visa liberalisation dialogue was established with **Moldova** in June 2010 and the visa liberalisation dialogue with **Ukraine** was pursued. For both countries, a visa liberalisation action plan was established at the end of 2010. In addition, Joint Readmission Committee meetings to monitor the implementation of EU readmission agreements took place with Ukraine and Moldova. The EU readmission agreement with **Georgia** was signed in November 2010 and will enter into force on 1 March 2011, concomitantly with an EU visa facilitation agreement. A Mobility Partnership has also been in place with Georgia since February 2010 and JLS sub-committees under the Association and Cooperation Agreements were established with **Armenia** and **Azerbaijan** in 2010.

Cooperation with partner countries of the **Barcelona process** was pursued within the framework of the Association and Cooperation Agreements. Meetings of the Justice and Home Affairs Subcommittees took place with **Algeria, Tunisia, Egypt, Jordan, and Lebanon**. Meetings of the Working Group of Social affairs and Migration took place with **Tunisia, Jordan and Egypt**. A notable development was the visit of Commissioners Malmström and Füle to **Libya** in October 2010 where they signed a Cooperation Agenda on migration and asylum issues with relevant counterparts.

Important progress can also be reported in the relations with strategic partners. A ministerial level **EU-US** declaration on strengthening air cargo security was agreed in January 2010 (Toledo declaration) and its implementation has been monitored since then. The EU-US Justice and Home Affairs Ministerial in April 2010 paved the way for the launching of an EU-US Platform for Cooperation on Migration and Refugee Issues. A negotiation mandate for an EU-US data protection agreement was presented by the Commission in May 2010. The EU-US Terrorist Financing Tracking Programme agreement entered into force in August 2010 and negotiations on an EU-US Passenger Name Records agreement were launched in December 2010.

The visa liberalisation dialogue with **Russia** continued in 2010 and agreement on the methodology and next steps in the process was reached at the EU-Russia Justice and Home Affairs Ministerial meeting in November 2010. In addition, a Joint Readmission Committee meeting to monitor the implementation of EU readmission agreement with Russia took place in 2010.

A migration dialogue meeting was held with **India** in October 2010, and the EU-India Summit joint statement in December 2010 referred to further initiatives in this regard, with a view to deepening cooperation.

As regards **other countries/regions**, the following was achieved in 2010:

Asia: The EU readmission agreement with **Pakistan** entered into force on 1 December 2010. Further efforts were undertaken at various levels in order to launch the readmission negotiations with **China** and **Algeria**.

Latin America: The European Union-Latin America (**EU-LAC**) Structured Dialogue on Migration was further developed during 2010 following its launch in June 2009. The VIth EU/LAC Summit took place in May 2010 and included the adoption of the Madrid Action Plan, which identifies this migration dialogue as one of the priorities in EU-LAC relations.

Africa: Within the Africa-EU **Migration Mobility and Employment (MME) Partnership**, a new Action Plan for 2011-2013 was developed and adopted at the 3rd Africa-EU Summit in Tripoli in November. Follow-up activities within the **Rabat/Paris process** included a thematic meeting on vulnerable migrants and a technical seminar on diasporas in development for the Africa countries. The EU has moved ahead on policy coherence for development. Substantial work has been done on diasporas, brain drain and remittances. An initiative on remittances resulted in the launch of the African Remittances Institute in June 2010, in cooperation with the African Union and the World Bank. Another round of negotiations was held with **Cape Verde** in October 2010 for an EU-level readmission agreement.

Further efforts were made to increase the geographic balance of the **Global Approach to Migration**, including in the revision of the funding programmes, notably in the preparation of the new multi-annual strategy 2011-2013 for the **Thematic Programme Migration and Asylum**. Also, a total of 70 new projects with a value of €74 million were approved under the 2009-2010 call for proposals of this programme.

Policy making support and coordination

As mentioned above, the main policy achievement in the home affairs area in 2010 was the adoption on 20 April 2010 of the Communication on the Action Plan implementing the Stockholm Programme 'Delivering an area of freedom, security and justice for Europe's citizens'. The **follow-up of the implementation of the Action Plan** was therefore a priority in 2010, together with the follow-up of the legal implications of the entry into force of the Lisbon Treaty for the home affairs area (infringements, preliminary rulings, framework for the Commission's exercise of the implementing powers, etc.). Another important activity was the continued follow-up of complaints received and registered as suspected **infringements**.

The **Co-operation and Verification Mechanism** set up to help Romania and Bulgaria to complete their judicial reform, to fight against corruption more efficiently, and as far as Bulgaria is concerned to fight organised crime, continued in 2010. An interim report and an annual report were released in March and July respectively. These reports show mixed progress: while Bulgaria has embraced reform efforts and achieved important results, Romania has lost momentum with the report showing important shortcomings in its efforts to achieve progress. Furthermore, the leadership of the judiciary in both countries need to take more responsibility for the benefit of reform. In the second half of 2010, Romania reacted constructively to the reports, correcting major deficiencies, however concrete results were still to be demonstrated. The Co-operation and Verification Mechanism will continue until all benchmarks identified to measure the progress made by Romania and Bulgaria have been satisfactorily fulfilled.

In view of the growing importance of evaluation as a tool to inform policy making, work also continued in 2010 to establish and disseminate good practices and improve the quality of **evaluations and impact assessments** in the home affairs area. An external study on evaluation and evaluation-related activities in the justice and home affairs areas shows that these activities are effective in providing valuable information for policy-making and demonstrating accountability. At the end of 2010, a tender procedure was launched for a framework contract for evaluation and evaluation-related services which will result in the signature of two contracts in 2011, one specific to home affairs policies and another for justice and fundamental rights.

Communication

2010 was a year of transition as regards communication activities. The arrival of two new Commissioners for the justice and home affairs portfolio resulted in an overall decrease of Communication events but an increase in answers to requests from the Cabinets and spokespersons. The first semester of 2010 therefore focused on closing external communication activities launched in 2009 with two notable exceptions: in the editorial field, **brochures** were published on the European Charter of Fundamental rights and on the Schengen area whereas in the audio-visual field **videos** were produced on children rights and on seasonal workers.

Following the split of the former DG JLS, focus in the second half of 2010 was on ensuring continuation of urgent activities and actions which had already been programmed, such as contributing to the "**Europa Diary**", developing important **new activities** including the organisation of a seminar for journalists for the launch of the

Internal Security Strategy and the definition of a **new visual identity**. However, some communication activities foreseen for 2010 had to be postponed (development of the "backend" system for the website), discontinued (competitions for young people) or transferred ("Transjai" project to OPOCE).

2. MANAGEMENT AND INTERNAL CONTROL

2.1. Introduction to DG Home Affairs

2.1.1. DG Home Affairs mission, administrative structure and organisation

The mission of the Directorate-General for Home Affairs is to create, on the basis of the principle of solidarity, an area of freedom, security and justice without internal borders where EU citizens and third-country nationals may enter, move, live and work. It aims to ensure that all activities beneficial to the economic, cultural and social growth of the EU may develop in a stable, lawful and secure environment. The Union's capacity to act as a significant partner in international cooperation with third countries in the area of freedom, security and justice will be developed.

DG Home Affairs is organised in three directorates (Internal Security, Immigration and asylum and Migration and borders) and two separate units reporting directly to the Director General (Coordination, planning, interinstitutional, communication Unit and International affairs Unit). The activities of the operational services are supported by the Shared Resource Directorate (SRD), working for both Directorates General, which covers personnel and IT matters as well as budgetary and control matters. The internal audit capability is also shared by the two new Directorates General. In terms of human resources, 316 management and staff members are working for DG Home Affairs and 109 for Shared Resources Directorate.

On 1 July 2010, **Stefano Manservigi** was appointed as **Director General** of the newly created DG Home Affairs. In accordance with the Internal Control Standards a hand-over report was prepared by Jonathan Faull, the Director General of the former DG JLS, in order to ensure the continuity of services carried out in the home affairs area.

The **financial circuit** put in place in DG Home Affairs follows the model which already existed in the former DG JLS. For most transactions this is model 3 "decentralised circuit with central counterweight", where the operational initiation and verification functions as well as the financial initiation function are executed within each directorate. The ex ante financial verification is performed by the Shared Budget, Control and Ex-post audits Unit (SRD.01). For the first pre-financing payment of grants, model 1 "decentralised without counterweight" is used. In such cases, payments are made without involvement of the central financial unit, and the financial verification is undertaken by the authorising officers.

The **system of sub-delegations and suppléances** in DG Home Affairs has also been maintained similar to that in the former DG JLS:

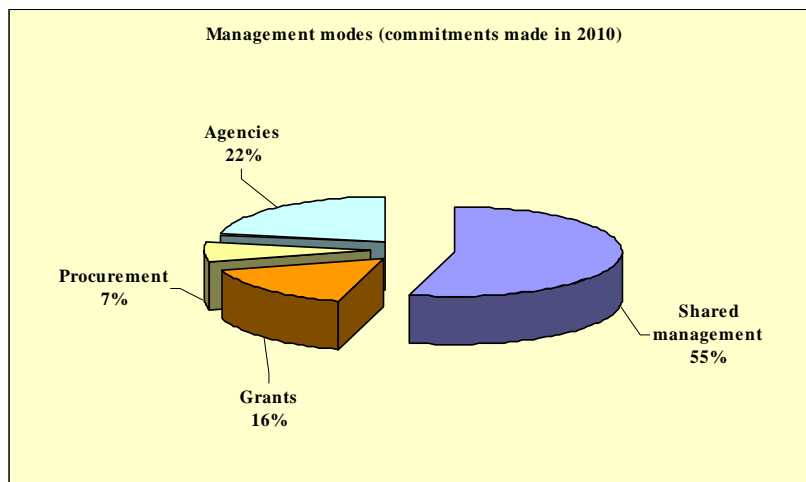
- *Sub-delegations*: the Directors are Authorising Officers by Subdelegation (AOS) for commitments and Heads of Units of A4, B2, B4, C2 and C4 are AOS for payments. In the Shared Resources Directorate financial operations are managed by each unit concerned and financially verified by Unit SRD/01.

- *Suppléances*: the AOS for commitments (directors) is replaced by another director and eventually by the director of the SRD, while the AOS for payments (heads of financial

units) are substituted by the AOS responsible for the corresponding commitments (directors).

2.1.2. Management modes

The budget of DG Home Affairs is implemented through four management modes. The chart below provides an overview of the share of the main management modes:



(1) Shared management

55% of the expenditure (commitment appropriations) in Home Affairs area is implemented under the shared management mode through the four Funds of the general programme "Solidarity and management of migration flows":

- the **External Borders Fund (EBF)** aims at contributing to the development of a common European integrated border management system, including support for the immigration liaison officers' network and the common visa policy.
- the **European Return Fund (RF)** aims at supporting efforts in Member States to improve the management of return in all its dimensions.
- the **European Refugee Fund (ERFIII)** aims at supporting and encourage all efforts made and the consequences of receiving refugees and displaced persons by the Member States. This is a continuation of the former ERF II (2005-2007) and ERF I (2000-2004).
- the **European Fund for Integration of third country nationals (EIF)** aims at supporting efforts made by Member States to improve the integration of third country nationals and fulfil the conditions of residence.

Final beneficiaries vary for each Fund and include public authorities (national, regional and/or local authorities, agencies with executing responsibilities), NGOs, international organisations, migrant organisations, civil society and private companies, all projects being implemented on a non-profit basis. For all Funds the number of final beneficiaries by annual programme is limited.

The implementation of the Funds is a joint responsibility between the Commission and the Member States. The implementation of the policy vis-à-vis the final beneficiaries is delegated to the Member States. The Commission bears ultimate responsibility for the overall legal framework and for the implementation of the budget.

The first level of control is carried out by the responsible authority, which performs management verification throughout the implementation period. The next level of control is represented by the audit authority, which has the responsibility to perform audits of the management and control systems and audits of operations. The audit authority reports the results to the Commission in its audit report as part of the annual closure of programmes, including an annual audit opinion on the functioning of the systems. The certifying authority finally takes steps to satisfy itself that adequate controls have been made by the responsible authority, and can carry out its own checks when necessary. Before certifying the Statement of expenditure, the certifying authority takes into consideration also the outcome of the audits performed by the responsible authority.

The Financial Units responsible negotiate the annual programmes and monitor their implementation. To this end, they are in regular contact with the responsible authorities and carry out on-the-spot visits. During the programmes implementation, these units receive and process the payment claims and, where necessary, interrupt or suspend such claims and take other safeguarding measures foreseen by the applicable legislation. All financial transactions are subject to ex-ante operational and financial verification.

The Member States submit annual closure reports which are evaluated by the Financial Units, with the support of the operational units within their Directorate.

In parallel, the Shared Resources Directorate comprises an audit sector in charge of audit activities through desk reviews of the management and control systems, audit strategies compliance audit missions and the analysis of the annual audit reports.

For further details, see the Internal Control Template in Annex 5.

The main developments in 2010 were:

- **The closure of the first annual programmes** of the Funds under the General Programme Solidarity and management of migration flows under the 2007-2013 financial framework started at the end of 2010 with the reception of the first final reports from the Member States. So far they only concern two of the four Funds (EBF and EIF). The closures of the 2008 annual programmes will however concern the four Funds, and will start in the first quarter of 2011.

The closure of the annual programmes represents the final stage of the implementation of the Funds, which has now reached full speed. This implies a significant increase in the workload of the units managing the Funds. In view of coping with this, internal procedures and working arrangements have been defined to ensure clear and efficient allocation of tasks between different units of involved in the decision process regarding the closures. In parallel, specific guidance was provided to Member States with regard to the preparation of the closure package.

- **Major overhaul of the implementing rules:** In the light of the experience of the first years of implementation of the Funds, it became evident that the current rules were complicated and sometimes difficult to interpret. A number of changes were made, taking into account requests from the Member States and DG Home Affairs' own objectives, while ensuring the application of the necessary level of control by the Commission. The proposed changes are scheduled to enter into force in the first quarter of 2011 and are expected to bring better achievement of the Funds' objectives, to increase the consumption of Member States' allocations under the Funds as well as to reduce the administrative burden on Member States.
- **Five new countries participate in the EBF as from the 2010 annual programme.** These are two Member States (Romania, Bulgaria) and three new associated countries (Switzerland, Norway and Iceland).

(2) Grants and procurements in direct centralised management

23% of the expenditure (commitment appropriations) in Home Affairs area is implemented under the direct centralised management mode through grants and procurements.

Direct grants are allocated under the programmes "Prevention and fight against crime", "Prevention, preparedness and consequence management" and under the Community Actions of the four Funds of the General Programme "Solidarity and management of migration flows".

Final beneficiaries of the programmes "Prevention and fight against crime", "Prevention, preparedness and consequence management" include public authorities (ministries, law enforcement bodies), NGOs, social partners, universities, statistical offices, international organisations, private companies, all projects being implemented on a non-profit basis.

Procurements cover mainly the *large scale IT systems* developed by DG Home Affairs (SISII, VIS, Eurodac).

(3) Subsidies to traditional agencies

22% of the expenditure (commitment appropriations) in the Home Affairs area is implemented under the direct centralised management mode through traditional agencies.

Following the split of DG JLS, DG Home Affairs took over the coordination of five agencies: European Agency for the management of Operational Cooperation at the External Borders (FRONTEX), European Police College (CEPOL), European Police Office (Europol), the European Asylum Support Office (EASO).

In the case of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA), a crossed sub-delegation was given by DG HOME in favour of DG JUSTICE. The funds for the subsidy were given to DG Justice to be managed on behalf of DG Home Affairs.

Agency	Seat	Management Board (total members/Commission's	2010 budget* (M€)	Total staff**
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		representatives)		
Frontex	Warsaw/Poland	29/2	89,05	143
Cepol	Bramshill/UK	27/0	8,17	26
Europol	La Hague/The Netherlands	28/1	79,72	453
EASO	La Valetta/Malta	29/2	5,25	24
EMCDDA	Lisbon/Portugal	34/2	15,26	84

* Commitment appropriations as voted by the Budgetary Authority, including also the transfers made during the year.

**Establishment plan, as voted by the budgetary authority

The Commission takes part in the governance of the agencies by participating as a member in the Management Boards, when the governing rules allow for this. Membership rules are laid down by the founding regulations of each agency. Agencies' Boards always include representatives from each Member State and generally one or two Commission's representative, each with one voting right. The exception is Cepol, where the Commission is invited as a non-voting member.

However, the Commission's representation on the Management Board is not the only way to reflect the particular responsibility that the Commission holds in implementing EU legislation. DG Home Affairs ensures the following monitoring activities:

- Monitoring of the agencies' policy activities:
The operational units for particular policies are involved in numerous contacts at working level, coordination meetings, providing opinions on annual work programme, draft budget, staff policy plan.
- Budgetary monitoring:
The agencies have full responsibility for the implementation of their budget, DG Home Affairs being responsible for the regular payment of the contributions established by the Budgetary Authority. Memoranda of Understanding were signed with each agency, clarifying the conditions for the payment of the EU subsidy by the Commission.
The EASO is in a special situation in this regard. As EASO was created in 2010 and is therefore in its start-up phase, DG Home Affairs is directly involved in its financial management, acting as authorising officer by delegation (AOD) until the agency has the operational capacity to manage itself the budget.

In addition, the Commission provides assistance to the agencies with regard to the application of the financial regulations, but also through the use of different Commission services (ABAC, Medical Service, recruitment via EPSO, training, PMO).

(4) **Decentralised management: Schengen Facility I (2004-2006) and II (2007-2009)**

The daily management of both Schengen Facilities was delegated to the beneficiary Member States. On the Commission's side, DG Home developed a specific supervision system. This included general guidance and support on the interpretation and application of the regulatory framework, close scrutiny of the management and control systems set up by beneficiary Member States, on-the-spot monitoring visits and audit missions.

At the level of the Commission, for Schengen Facility II the responsibilities of AOD were divided between DG BUDG (AOD for payments) and the former DG JLS. DG Home Affairs is responsible for the supervision of the funds as well as for the clearance of accounts procedure. Based on this arrangement, no appropriations were introduced in the DG JLS/Home Affairs budget.

The clearance of accounts exercise occurs after a series of monitoring controls during the implementation period. For Schengen Facility I, the clearance of accounts procedure is almost completed. For Schengen Facility II, the clearance of accounts procedure will take place in 2011 and 2012.

(5) **Crossed sub-delegations**

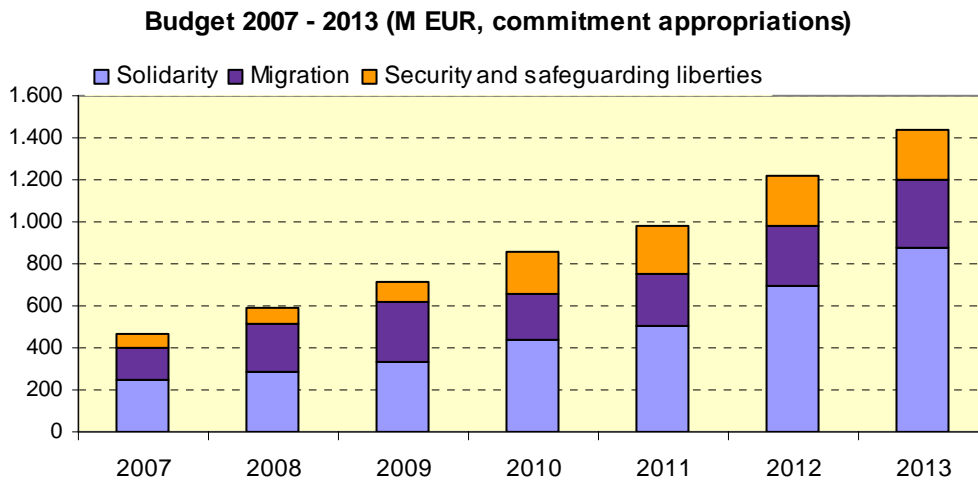
DG Home Affairs gave crossed sub-delegations (DG Home Affairs' appropriations to be managed by other DGs in the Commission) to the following DGs:

- DG DIGIT, for the hosting of the IT systems of DG Home Affairs,
- DG ESTAT, in the framework of the Service Level Agreement concluded between the ex-JLS and DG ESTAT,
- OPOCE, following the take over of the Transjai file by OPOCE,
- DG JUST, one crossed sub-delegation for the "drugs" field in the ISEC programme and a second one for the operational management of the agency EMCDDA.

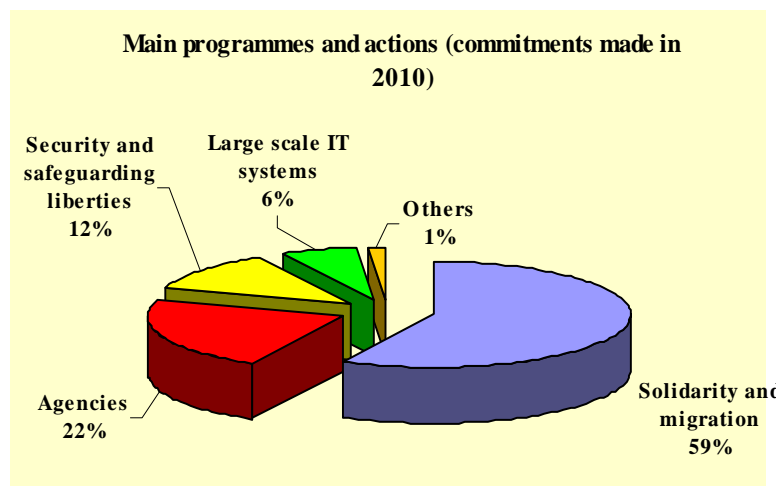
For these activities, a work programme is required. After the end of the year, the service must provide a report on the activities carried out in view of the assurance the AOS needs for the Annual Activity Report.

2.1.3. General overview of DG Home Affairs' budget

The budget currently managed by DG Home Affairs (previously part of the DG JLS budget) has been on an upward trend for the last years and will have actually tripled by 2013 as compared to 2007 figures.



In 2010 DG Home Affairs' policies were supported by a budget of more than EUR 900 million in commitment appropriations, representing 0,65% of the EU budget, with a corresponding envelope of EUR 655 million in payment appropriations. The specific actions are mainly grouped into two general programmes: Solidarity and Management of Migration Flows and Security and Safeguarding Liberties.



An overview of the budgetary consumption of DG Home Affairs' total commitment and payment appropriations is presented in the table below:

Heading 3a: Freedom, security and justice	Implementation of commitment appropriations *		Implementation of payment appropriations **	
	M€	(%)	M€	(%)
Solidarity and migration funds	506,5		296,2	
External Borders Fund	20478	88,43%	103,9	76,99%
Return Fund	87,0	99,29%	47,0	88,43%
European Refugee Fund***	104,2	94,57%	78,3	94,14%
European Fund for the Integration of third countries nationals	110,5	100%	67,0	98,85%
Security and safeguarding liberties (grants)	106,4		33,4	
Prevention and fight against crime	86,0	99,21%	27,8	70,43%
Prevention, preparedness and consequence management of terrorism	20,4	100%	5,6	66,74%
Large-scale IT systems	56,8	84,55%	43,6	78,49%
Decentralized agencies	194,7		184,8	
Frontex	89,0	100%	80,0	100%
EASO	3,2	60,68%	2,2	95,65%
Europol	79,7	100%	79,7	100%
Cepol	7,8	95,52%	7,5	81,09%
EMCDDA	15,0	98,31%	15,4	98,54%
Others	13,3		15,9	
Total	877,7	94,41%	573,9	87,58%

* Also includes the appropriations carried over (C3) and the assigned revenue (C4, C5).

** Also includes the assigned revenues (C4, C5)

*** Including Emergency measures

In 2010, DG Home Affairs saw a good implementation rate of its commitment appropriations (94%). The under-implementation refers mainly to the EBF, where the annual programmes for the five countries participating for the first time in the Fund could not be adopted in time. As a result, commitment credits of EUR 24.2 million are being carried forward.

The consumption of payment appropriations was lower than initially foreseen (88%) mainly for the External Borders Fund (EBF) and the general programme "Security and Safeguarding liberties". As regards the EBF, the delay in payments was caused not only by the late adoption of the five annual programmes mentioned above but also by delays in the transmission of the final report for the first closures relating to the 2007 annual programmes. This under-implementation will therefore be reduced by carryovers.

As regards the General Programme "Security and Safeguarding liberties", the under-implementation was mainly triggered by lower than expected participation in the 2010 targeted calls for proposals. An amount of EUR 16.2 million was returned in the framework of the global transfer.

Appointment of the new Commission and split of former DG JLS

The Barroso II Commission took up office on 10 February 2010 and the former JLS portfolio was allocated to two Commission members: the Justice part to Vice President Reding and the Home Affairs part to Commissioner Malmström. On 2nd of June 2010, the Commission took the decision to split DG JLS into two separate DGs (Home Affairs and Justice) with a Shared Resources Directorate (SRD) and Shared Internal Audit Capability (SIAC). The decision entered into force on 1 July 2010.

The split required an extensive work to align the systems, procedures and staff allocation to the new organisational structure. The initial transition was smooth, but actions are still ongoing in 2011 to fully implement the vision of the new management.

Organisational issues and reallocation of staff to the newly created DGs and to the Shared Resource Directorate (SRD) were the first priorities in order to rebalance the workforce according to priorities. The transition was smoothed by:

an intensive IT activity to align systems, infrastructures and procedures to the new set-up of the DGs, as well as increased help desk support during the transition period;

increased internal communication and training activities;

major involvement of the logistics sector in order to manage the installation of the newly-appointed Directors-General and related staff;

review of the Business Impact Analyses for both DGs in order to establish new Business Continuity Plans and put in place related internal communication strategy.

Developments regarding large scale IT systems (SISII and VIS)

As regards the *Schengen Information System II (SISII)*, the milestone 1 test requested by the June 2009 JHA Council was successfully passed and the reputational event related to it was mitigated. The April 2010 JHA Council, taking account of the positive milestone 1 result confirmed that the project would move ahead on the basis of the SIS II technical solution until the next evaluation point (milestone test to be completed in mid-2012). A time schedule for completing the project by March 2013 was finalised in close cooperation with stakeholders and presented to the JHA Council in October 2010 together with a revised budget for SIS II development.

Regarding the development of the *Visa Information System (VIS)*, the outlook is more positive now than at the start of the 2010 reporting period. The SST tests have been completed and the project has moved on to the next stage of testing (operational tests). These Operational System Tests started on 23 August 2010 and ended on 14 February 2011. These tests were satisfactory and, in order to solve the few remaining outstanding issues which would allow the acceptance of this testing phase, the Commission in agreement with the Member State experts, decided to grant to the Main Development Contractor a remediation period until 16 March 2011. The Commission services closely supervise the main development contractor on a continuous basis, in cooperation with the

quality contractor and the Member States. Penalties of EUR7.6 million related to delays in completion of the previous set of tests on the VIS central system were applied in 2010.

However, despite these positive developments in 2010, both projects remain technically challenging both at central and Member State levels, and hence continue to entail significant risks. For the SIS II, the unforeseen unavailability of a SIS 1 testing environment, which is essential for the further development of the central SIS II and the migration from the existing system, may impact negatively on the stability of the current schedule and the budgetary estimate announced by the Commission to the Council and the European Parliament in October 2010. The readiness of the national systems may also determine slippage in the current schedule. For the VIS, the state of developments of national preparations in certain Member States, as well as the political situation in certain North African countries could jeopardize the schedule for entry into operations of the VIS, hence leading to possible reputational damages for the Commission.

European Police College (Cepol)

The refusal of discharge for 2008 by the European Parliament in October 2010 kept Cepol in the spotlight in 2010. In January 2011, the European Parliament voted the closure of 2008 accounts without having finally granted the discharge.

Nevertheless,, 2010 saw major changes and improvements in Cepol:

- A new director was appointed in February 2010 and two important vacancies (the budgetary officer and the accounting officer) were filled in.
- New financial rules, following Commission's recommendations, as well as a new Strategy and a balanced scoreboard to improve the administration of the agency were adopted by the Management Board.

Despite the presentation of these improvements by the new director to the relevant Committees in the European Parliament (LIBE and COCOBU), the European Parliament's draft 2009 discharge reports available at the moment show that it is still likely that the European Parliament could refuse to grant the discharge for 2009 also. In its opinion voted on 28 February 2011, the LIBE committee advises not to grant discharge to Cepol. The COCOBU committee is considering for its draft opinion to postpone or even reject the discharge. The vote will be held on 11 April 2011.

As a result, Cepol continued to represent a reputational event in 2010 also.

European Asylum Support Office (EASO)

Following the Commission's proposal of 18 February 2009, the co-legislators formally approved the creation of a European Asylum Support Office (EASO) on 29 May 2010¹ and decided that this new agency would fall under the supervision of DG Home Affairs. The Member States decided that its seat would be Valletta, Malta.

¹ [Regulation \(EU\) 439/2010](#)

The Office was set up in the form of an agency, an independent European body. The EASO supports Member States in their efforts to implement a more consistent and fair asylum policy, for example by helping to identify good practices, organising trainings at European level and improving access to accurate information on countries of origin. It also provides technical and operational support to Member States facing "particular pressures" (i.e. Member States receiving large numbers of asylum claims), via the deployment of asylum expert teams, thus contributing to alleviate some of the pressure on their systems.

The Office will work closely with the authorities responsible for asylum in the Member States and with the Office of the United Nations High Commissioner for Refugees. There will also be a Consultative Forum for dialogue with civil society organisations.

The first meeting of the Management Board took place in Malta on 25 and 26 November 2010, when the first Executive Director has been selected. As in 2010 the agency was still in its start-up phase, the Commission/DG Home Affairs ensured the financial management of the agency. The EASO founding Regulation provides that the Office will be fully operational by 19 June 2011.

2.2. The functioning of the entire internal control system

The annual evaluation of the internal control system in DG Home Affairs is carried out through the analysis of compliance with the Internal Control Standards (ICSs) requirements and assessment of the effectiveness of the implementation of selected Internal Control Standards using survey questions (Internal Control Self-Assessment Tool, ICAT exercise) or corresponding indicators. The main outcomes of these exercises are presented below.

2.2.1. Compliance with the requirements of the control standards

Based on an internal review of the implementation of the Internal Control Standards (ICSs), DG Home Affairs is fully compliant with the requirements of each of the 16 ICSs.

By the actions taken in 2010, DG Home Affairs consolidated the implementation of the baseline requirements considered as partially implemented at the end of 2009, especially with regard to the validation of the local accounting system by DG Budget. All the efforts taken to improve accounting quality in DG Home Affairs have been examined by DG Budget in a follow up audit that allowed to finally lift the reserve on validation. Positive results were also achieved regarding business continuity, fraud awareness, training on ethics, and internal control (training given by the SRD and DG BUDG), as well as improvements in financial management and document management.

No derogations to the mandatory staff mobility requirement for sensitive functions were granted in 2010.

2.2.2. Effectiveness of implementation of the prioritised control standards

In the 2010 Annual Management Plan, the former DG JLS had identified four priority standards (ICS 9 "Management supervision", ICS 11 "Document management", ICS 12 "Information and communication" and ICS 13 "Accounting and financial reporting"), for which it was decided to take measures to improve effectiveness.

In October 2010 the Internal Control Coordinator launched the Internal Control Self-assessment (iCAT) survey. The online survey involved all Directors and Heads of Unit and a sample of non-management staff members randomly chosen, reflecting different grades and genders. The results were used to evaluate the effective implementation of three prioritised standards (ICS 9, 11 and 12). The effectiveness of ICS 13 was not assessed using iCAT (the tool was not considered relevant in this area) but using corresponding indicators.

ICS no 9: "Management Supervision"

Management supervision was identified as a priority in 2010 with a view to ensuring close management monitoring of the risks faced in 2010, notably with regard to large scale IT projects.

The Commission rigorously supervised and monitored the contractor's work throughout 2010 in close cooperation with the Member States and the quality assurance contractor (close checking of deliverables, regular discussions with the contractor, etc). The Commission continued to fully involve Member States in decision-making and follow-up of deliverables and technical matters, in particular via the various working group and forums for the project. In critical testing periods, consultations took place on a weekly basis.

The internal control self-assessment survey showed an overall positive evaluation of the effectiveness of the implementation of this ICS. (75% of replies supported this statement). The management is overwhelmingly convinced (93%) that the key controls in place are operating as intended and that they are well informed by staff in order for them to carry out their supervision tasks efficiently. Staff's responses indicated however that improvement is needed, for example in the communication of management's decisions (50% of the respondents).

Based on the results of the 2011 risk management exercise, as well as recent organisational changes in DG Home Affairs, it was decided to prioritise this standard for 2011 also.

ICS 11: "Document Management"

Document management was identified as a priority in 2010 with a view to ensuring that document management is secure, efficient and complies with the applicable legislation in view of the migration to Ares.

Most of the identified risks have been eliminated through the implementation in 2010 of the e- Domec programme. As part of this, DG Home Affairs successfully migrated to Ares in September 2011.

The self-assessment survey showed an overall positive evaluation of the effectiveness of the implementation of ICS 11 (according to 75% of the respondents). 72% of managers and 79% of staff perceive document management as effective and helpful in every-day work.

This is why this standard is no longer a priority in 2011.

ICS no 12: "Information and Communication"

A number of comments given by the participants of the 2009 survey had indicated needs for improvement of organisation and accessibility of the former JLS's intranet. For this reason ICS 12 was identified as a priority for 2010.

Significant improvements have been made in 2010 regarding the local intranet, both before the split of the former DG JLS and later after the creation of DG Home Affairs. The new intranet of the former DG JLS went live on 14 June 2010. Intranet correspondents were nominated for each unit, following a decentralised approach vis-à-vis the information made available on the Intranet. Training for intranet correspondents was provided before the launch of the revamped intranet.

Following the split of the former DG JLS, the intranet was restructured and three separate intranet sites were created for each new DG and the SRD. The split offered the opportunity to review the information presented on intranet, to better structure it and to improve its dissemination. Relevant information is communicated to staff through a weekly internal newsletter, daily intranet updates, flyers and brochures posted in the building and targeted emails.

In the framework of the self-assessment survey, ICS 12 received a satisfactory overall evaluation (69% of participants perceived it as effective). The SRD's intranet was scored also as satisfactory as a good source of information on both operational and financial processes and procedures, but it is clear that further improvements can be made. For this reason, this ICS will remain as a priority standard also in 2011.

ICS no 13: "Accounting and financial reporting"

In order to address recommendations resulting from DG Budget final report on the validation of the local accounting system, DG JLS/DG Home Affairs decided to prioritize ICS 13 in 2010.

DG Home Affairs built extensive accounting guidelines and monthly reporting was strengthened by including a set of management indicators. Specific procedures ensuring the correct registration of assets were implemented.

All the efforts taken to improve the accounting quality in DG Home Affairs have been examined by DG Budget in the framework of the follow-up audit on validation of local accounting systems. As a result, the reserve on validation was lifted. DG Home Affairs considers that the standard was effectively implemented.

2.2.3. *General appreciation of the functioning of the internal control system in its entirety*

The 2010 assessment of the effectiveness of the Internal Control System as a whole in DG Home Affairs was carried out based on desk reviews on compliance with the baseline requirements of the Internal Control Standards (ICSs), the self assessment survey (iCAT exercise), the audits performed by the IAC, IAS and the Court of Auditors and the annual risk management exercise performed in the context of the Management Plan. In this way, all the 16 ICSs were covered.

The conclusion of the *desk reviews on compliance* with the baseline requirements of the Internal Control Standards (as described in 2.2.1) was that at the end of 2010 DG Home Affairs is generally compliant with all the Internal Control Standards requirements.

The *self assessment survey (iCAT exercise)* reviewed the effectiveness of six internal control standards, namely: ICS 1 "Missions", ICS 3 "Staff allocation and mobility", ICS 7 "Operational structure", ICS 9 "Management supervision", ICS 11 "Document management" and ICS 12 "Information and communication". This selection of standards is based on 2010 DG Home Affairs' priority standards (ICSs 9, 11, 12 and 13) as well as on results of the brainstorming that took place during the internal control training session that took place on 7 October 2010, where ICSs 1, 3 and 7 have been identified as areas where more attention is needed due to the recent split of DG JLS. The results of the self assessment survey for the three ICSs prioritised in 2010 (ICSs 9, 11, 12) are described in 2.2.2. The conclusion is that for ICS 9 and 12 improvements in their effective application are still required and therefore they continue to be prioritised in 2011.

The results of the survey in case of the ICSs 1, 3 and 7 can be summarised as follows:

- ICS 1 "Missions": DG Home Affairs' *raison d'être* is clearly defined and understood, according to 100% of managers and 88% of staff. The standard is considered effectively implemented.
- ICS 3 "Staff allocation and mobility": The self-assessment survey disclosed a low effectiveness rate: only 54% of participants considered the standard as effectively implemented. Few managers consider staff allocation as aligned with priorities and workload (21,4%) and mobility bringing benefits to the global output of the DG (56,25%). In particular, management members repeatedly mentioned need for improvement of workload balance, understaffing issue and need for definition of negative priorities. In order to address these needs and maintain a particular focus on these issues throughout the year, the DG decided to prioritize this standard in 2011.
- ICS 7 "Operational structure": the implementation of the ICS is perceived as positive (according to 74% of the overall answers). The results on the specific questions asked reflect that the operational structure's rules are clear, but some improvements are nevertheless needed in order to support more effectively the decision making

The third element taken into account for the assessment of the effectiveness of the entire Internal Control System was represented by the information obtained from *audits during the reporting year*. Details about the audits performed in 2010 and the follow up of previous years' audits are set out in part 3.1.2 and 3.1.3.

Finally, based on the results of the *annual risk management exercise*, DG Home Affairs decided to prioritised also the ICS 8 "Processes and procedures", in relation to the closure procedures for SOLID funds. Simplification of procedures, prioritisation of tasks and speeding up the analysis will be implemented.

Conclusion

Taking into account the above information, there is satisfactory evidence that the processes and procedures in place control the main risks by providing a reasonable assurance that the key objectives are met and that the activities are carried out as intended. Actions are underway to address the identified areas for improvement, mainly in the area of staff allocations and mobility (ICS 3), processes and procedures in relation to the closures of the SOLID funds (ICS8), simplification of decision making (ICS 9) and information and communication of management's decisions (ICS 12). Based on all information and the above analysis, it can be stated that DG Home Affairs' internal control system is generally functioning well.

2.3. Information to the Commissioner

The main elements of this report and assurance declaration have been brought to the attention of Commissioner Malmström.

The **working arrangements with Commissioner Malmström** in charge of the home affairs policy area include the weekly "jour fixe" meetings with the Commissioner and her Cabinet which are devoted both to current and strategic issues as well as bi-annual reports on the most important financial and internal control issues.

3. BUILDING BLOCKS TOWARDS THE DECLARATION OF ASSURANCE (AND POSSIBLE RESERVATIONS TO IT)

3.1. Building blocks towards reasonable assurance

3.1.1. Building block 1: Assessment by management

The control mechanisms for each management mode, including the special case of the Schengen Facility are described in the Internal Control Templates (Annex 5). Regarding the materiality criteria, DG Home Affairs applied the standard threshold of 2% for each ABB activity.

Shared management

Under this management mode, the assessment of the control system leans on the structure and the operational efficiency of the management and control systems implemented by the Member States, assessed through a number of complementary sources. See annex 5 (Internal Control Template) for details.

(a) ERF II (2005-2007)

Closure

For the 2007 programme, the eligibility period ran from 1 January 2007 to 31 December 2008. Final reports from the Member States were due by end of June 2009. Nevertheless, the Commission was not in a position to close all 2007 annual programmes in 2009 either because they were submitted late by the Member States, or because further clarification was requested by the Commission. Therefore, efforts continued in 2010 to close all ERF II files. Out of 74 programmes under the ERFII (2005-2007 period), 34 had been closed before 2010. 32 programmes were additionally closed in 2010, and the remaining 8 should be closed in 2011.

Audit assignments

In 2010, 3 ex-post audit missions were carried out to check both the systems put in place by the Member States and a sample of projects. In total, since 2008, 10 systems (out of 26) have been checked. This represents an audit coverage of more than 40% of the total allocations. Two further missions will be performed in 2011.

The main recurrent finding was the inadequacy of the certification procedure for 2005 programmes either due to misunderstanding on the role of the new certifying authority (compared to ERF I), or due to a lack of documentation of certification activities which made it difficult for the auditors to assess the tasks performed. Nevertheless, the audits performed on the projects funded under the 2005 annual programme confirmed that the impact of this weakness was limited. In addition, clear improvements were visible as from 2006 annual programmes.

At the end of 2010, 10 systems have been analysed in detail through audits of projects for which the objective was to check the eligibility of actions co-financed by the ERF II. This represents 20% in terms of value. The error rate is on average of 4% (excluding one

beneficiary that was not representative with an error rate of 28%). Following the issuing of the final audit reports, all unduly spent amounts have been recovered.

This error rate cannot be directly extrapolated to the non-audited population. Indeed, most of the Member States that have not been audited for ERF II (8 out of 12) had been previously audited in the context of ERF I. Therefore, it is reasonable to assume that the outcome of these audits was duly taken into account by the responsible authorities for the management of ERF II. For Romania and Bulgaria, which did not participate in ERF I, a detailed desk review of the systems has been carried thus limiting the risk of implementation of an inadequate system.

In conclusion, DG Home Affairs considers that the overall expected error rate on the non-audited population is low.

Impact of controls

As a result of the weaknesses identified in relation to the certification function, DG Home Affairs applied flat rate financial corrections for some of the Member States audited (depending of the expected impact on the Fund). Decisions are based on Commission Decision 2006/400/EC. Coherence and equality of treatment between the Member States in this matter was ensured through regular discussions between the different services involved in DG Home Affairs in financial management, ex ante checks and external audit. The flat rate financial corrections applied vary from 2 to 10%, depending on the significance of the identified weaknesses.

The situation at 31 December 2010 was as follows:

- For one Member State, a flat rate financial correction of 10% was made for the 2005 and 2006 annual programmes;
- For three Member States (four programmes), the procedure to apply financial corrections are underway. In total, the expected amount to be recovered is equal to EUR 0,3 million.
- For two Member States (five programmes), the procedures for financial corrections totalling an expected amount of EUR 0,1 million will be launched early 2011.

For all Member States audited so far, the identified weakness regarding the certifying authority did not remain unaddressed and its impact on the eligibility of actions is low. Therefore, DG Home Affairs does not consider that this weakness is significant. In addition, EUR 0,1 million represents only 0,22% of the payments made under ABB activity 18 03, which is largely below the materiality threshold.

(b) The Four Funds of the general programme "Solidarity and management of migration flows" (IF, EBF, ERF III and RF)

Compared to 2009, there has been an increase in the supervisory activities of the Commission (e.g. review of the audit strategies, system audits, start of the monitoring activities which will be continued in 2011). In addition, the first closure reports from the 2007 IF and EBF programmes allowed obtaining a better picture of the implementation of the Funds. The Member States submitted their 2010 annual summaries and have sent information on the financial implementation in 2010. On the basis of this information, an **overall management opinion** is provided on the implementation of the Funds in each Member State by the Authorizing Officer by Delegation when assessing the final level of assurance. See Annex 4 for details.

For EBF, the 3 associated countries (Iceland, Norway and Switzerland), as well as Romania and Bulgaria are not taken into account for the assurance as no commitments nor payments were made in 2010 for these programmes.

Operational monitoring

28 monitoring missions took place in 2010, resulting in a clearer picture on the situation as regards the implementation of the Funds in the Member States, in particular in the largest beneficiary states.

Audit Activities

Desk reviews of management and control systems descriptions. For the 2007/8-2013 period, the Member States had to send a description of their management and control systems (MCS) to the Commission prior to the approval of their multi and annual programmes. In 2007 and 2008, DG Home Affairs auditors therefore carried out desk reviews of all the initial system descriptions and recommended changes where necessary. The approval of the multi-annual programmes was launched only once the analysis of the final version of the description of the MCS resulted in an unqualified opinion or a qualified opinion with limitations. In 2009 and 2010, outstanding limitations or comments of a non-qualifying nature on the system descriptions were transmitted to the Member States and final versions were received back. Subsequently, any updates of the description at the initiative of the Member States were analysed and, where appropriate, commented on.

By 31 December 2010, the vast majority of the systems finally received an unqualified opinion from DG HOME AFFAIRS AUDITORS. The qualified opinions with limitations issued (i.e. qualifications not amounting to any doubts about the compliance of the system with the basic act) are mainly due to a lack of detailed information, or existence of references to future events (e.g. "a manual of procedure will be developed in the coming weeks", "detailed job descriptions will be drafted", etc.). For the Member States concerned, audit missions have been carried out since the submission of the paper management and control description, and DG Home Affairs' auditors ensured that the systems were working adequately and key documents finalised. Therefore, these types of opinion are due to the fact that the Member States concerned did not issue any revised paper description, whereas on-site, systems work well.

Review of audit strategies. In 2009, most of the Member States submitted to the Commission an audit strategy covering the audit authority and other bodies which will perform the audits, the methods to be used, the sampling method for audits of operations and the indicative planning of the audits. In 2010, DG Home Affairs' auditors continued the assessment of the audit strategies which were either submitted late by the Member States, or for which the Commission still had comments in 2009.

By 31 December 2010, 43 audit strategies have been submitted in total and only 2 of them have not been accepted yet. For one audit strategy (covering IF, ERFIII and RF) clarifications were requested, which remained unaddressed by the member State at the end of 2010. The second audit strategy (only covering IF) was rejected based on the lack of a consolidated presentation (submission made in three totally independent documents). This situation should be resolved by mi-2011.

INDICATORS	Year 2010			Cumulative information since beginning of programme period (when applicable)		
OUTPUTS - by process	Intensity	Coverage		Intensity	Coverage	
*	-	as % of		-	as % of	
	-	# of Programmes	Contribution (2007 - 2010)	-	# of Programmes	Contribution (2007 - 2010)
* Name of Fund: European Integration Fund		* Programming period: 2007-2013				
Set-up of systems	-	104	323 M€	-	104	323 M€
°Desk reviews	11			38	100%	100%
Unqualified opinion	10	34%	29%	26	87%	88%
Qualified opinion with limitation(s)	1	3%	1%	12	13%	12%
° Acceptance of MS audit strategy (2007-2013)	2	8%	30%	25	96%	98%
* Name of Fund: European Refugee Fund III		* Programming period: 2007-2013				
Set-up of systems	-	78	246M€	-	78	246M€
°Desk reviews	10			27	100%	100%
Unqualified opinion	9	32%	22%	25	88%	85%
Qualified opinion with limitation(s)	1	4%	4%	2	12%	15%
° Acceptance of MS audit strategy (2007-2013)	2	8%	12%	25	88%	98%
* Name of Fund: European Return Fund		* Programming period: 2007-2013				
Set-up of systems	-	78	199 M€	-	78	199 M€
°Desk reviews	8			27	100%	100%
Unqualified opinion	8	28%	19%	27	100%	100%
Qualified opinion with limitation(s)	0	0%	0%	0	0%	0%
° Acceptance of MS audit strategy (2007-2013)	2	8%	25%	25	96%	99%

* Name of Fund: External Border Fund		* Programming period: 2007-2013				
<i>Set-up of systems</i>	-	92	666 M€	-	92	666 M€
°Desk reviews	5			33	100%	100%
Unqualified opinion	5	16%	8%	25	91%	96%
Qualified opinion with limitation(s)	0	0%	0%	8	9%	4%
° Acceptance of MS audit strategy (2007-2013)	2	9%	20%	23	100%	100%

Audit missions. A risk assessment was carried out in 2009 on all systems, allocating risk scores to risk criteria in order to result in a comparable figure of a total risk score of each system. Risk criteria included issues such as qualified opinion following desk reviews, possible understaffing, number of intermediate bodies, multiple Funds implemented under the same system, past experience with the authorities, total allocations, etc. A total sum at risk has been calculated for each of them. This was the basis for 2010 audit work plan. In total, 14 missions were foreseen. All of them were carried out, except two, postponed to the first quarter of 2011 due to human resources constraints. It has to be noted that one mission can cover one or more system(s) and/or Fund(s).

INDICATORS	Year 2010			Cumulative information since beginning of programme period (when applicable)		
	Intensity	Coverage		Intensity	Coverage	
Commission audits - number of systems/programmes audited	# of Systems	as % of		# of Systems	as % of	
	Actual	# of Programmes	Contribution	Actual	# of Programmes	Contribution
IF	8	31%	33%	17	65%	88%
ERFIII	8	31%	26%	16	62%	63%
RF	8	31%	29%	16	62%	71%
EBF	6	26%	23%	14	61%	77%

Since 2008, the 24 missions carried out by DG Home Affairs' auditors covered between 60% and 90% of the total allocations, depending on the Funds. At the end of 2011, DG Home Affairs' auditors expect to have covered most of the systems, with the exception of the associated countries and Romania/Bulgaria for the External Border Fund as, for these countries, the first annual programme is 2010.

During the audit missions, DG Home Affairs' auditors satisfied itself that the systems were correctly operating. No major weaknesses have been found and none of the audits led to suspension of payments or the launching of flat rate financial corrections.

Annual audit reports. In line with the Single Audit approach, DG Home Affairs takes into account the results of the audits performed by the audit authorities, both on the systems and on projects. The outcomes of these audits are reported to the Commission as part of the annual closure reports. For 2007 programmes (IF and EBF), the closure reports were due for 30 September 2010.

INDICATORS		Year 2010			
* Closure of programmes		# of Programmes		as % of	
		Target (2010 or 2011)	Actual	# of Programmes	Contribution
* Name of Fund: European Integration Fund			* Programming period: 2007-2013		
Closure documents received					
	(1) 2007	26	17	65%	55%
	(2) 2008	35	n/a	n/a	n/a
Closure procedure on-going					
	2007		15	58%	53%
* Name of Fund: External Border Fund			* Programming period: 2007-2013		
Closure documents received					
	(1) 2007	23	17	74%	81%
	(2) 2008	29	n/a	n/a	n/a
Closure procedure on-going					
	2007		12	57%	49%

As showed by the table above, not all documents were received by the end of December 2010, and within the received files, some of them were incomplete. Therefore, only 15 audit opinions were analysed for the IF and 12 for the EBF.

Overall, 19 unqualified audit opinions were issued out of the 27 which were ready for review. For the 7 qualified opinions, DG Home Affairs paid particular attention to the scope of the limitations and ensured that none of the declared expenditure was at risk thanks to adequate mitigating factors. As regards the adverse opinion that was issued by one Audit Authority for the management of the External Border Fund in one Member State, DG Home Affairs decided to interrupt the final payment until the Member States is able to demonstrate that the recommendations issued by the Audit Authority have adequately been addressed by the Responsible Authority. As of March 31st 2011, the payment was still interrupted. See table below.

INDICATORS	Year 2010		
RESULTS	Intensity	Coverage	
* Assessment of management control systems - functioning of systems	# of Programmes	as %	
		# of Programmes	Contribution
* Name of Fund: European Integration Fund		* Programming period: 2007-2013	
° Member States - Annual opinion from the AA (as part of closure)	15		
- clean opinion	10	67%	86%
- opinion with reserves	5	33%	14%
- unfavourable	0	0%	0%
* Name of Fund: External Border Fund		* Programming period: 2007-2013	
° Member States - Annual opinion from the AA (as part of closure)	12		
- clean opinion	9	75%	56%
- opinion with reserves	2	17%	3%
- unfavourable	1	8%	41%

Annual summaries. DG Home Affairs revised the guidance for the 2010 annual summaries. The revised note was discussed with the Member States. In this note, the Commission reiterates its encouragement to the Member States to add value to the summaries by providing additional information which is not communicated in other reports. The table below shows the state of play of the annual summaries.

Annual summary submitted	27
Annual summary submitted on time	22
Compliance with minimum requirements of Financial Regulation	27
Compliance of the template with the guidance note	27
Overall Analysis provided	27

27 Member States have complied with the minimum requirements of the Financial Regulation and the template as defined by DG Home Affairs regarding information to be provided. The Commission therefore accepted all annual summaries without further comments.

Although minor weaknesses have been detected by some Member States (missing documentation, some ineligible costs found, etc.), none of them are considered to be critical for the overall functioning of the four Funds, including their control systems.

For two Member States, suspicions of fraud were reported. In one case, the Member State did not charge the suspected fraud associated costs to the annual programmes concerned. For the other case, the Member State decided to report the beneficiary to the Economic Crime Authority on the grounds of suspected crime. An investigation is under way. As it concerns the Return Fund, no final report has been submitted yet but DG

Home Affairs will ensure that the associated costs are not charged to the Fund until the investigation is closed.

Overall Management Opinion

The assurance for the funds under shared management mode is based on all the information presented above that enables DG Home Affairs to formulate an opinion on the level of implementation of the Funds in each Member State, using a methodology detailed in Annex 4. The audit opinion and the operational opinion constitute the basis of the management opinion.

Individual management’s opinions have been translated into financial risk, according to the principle that each of the four levels of opinion corresponds to a level of financial risk:

- For programmes where the final opinion is **reasonable assurance**: the amount at risk is negligible (below 2%);
- For programmes where the final opinion is **reasonable assurance with moderate impact**, the maximum amount at risk is estimated at 2% of the payments made during the year;
- For programmes where the final opinion is **limited assurance with significant impact**: the system presents important deficiencies and their impact on the assurance is deemed to be important, i.e. the maximum amount at risk is estimated at 5% of the payments made during the year;
- For programmes with **no assurance**, the risk for payments in the year covered by this Annual Activity Report is high and the maximum amount at risk is estimated at 10% of the payments made during the year.

The amount at risk determined for each Member State are then added up at the level of each Fund in order to determine whether the risk of undue payments at ABB level exceeds the 2% materiality threshold for a given ABB Activity.

IMPACT on Declaration of Assurance (based on <u>functioning of systems, materiality and legality and regularity</u> criteria)	Coverage			Estimated impact
	# of Programmes	as % of Programmes	Payments to Programmes in question as % of total payments in the year	Risk from system deficiencies as % of total payments in the year for this Fund
* Name of Fund: European Integration Fund			* Programming period: 2007-2013	
* Reasonable assurance	81	78%	92%	
* Reasonable assurance with moderate impact	22	21%	8%	0,16%
* Limited assurance with significant impact	1	1%	0%	0%
* No assurance	0	0%	0%	0%
TOTAL				97 K€
TOTAL PAYMENTS MADE for ABB 1803 in 2010				156 M€
				0,06%

IMPACT on Declaration of Assurance (based on <u>functioning of systems, materiality and legality and regularity</u> criteria)	Coverage			Estimated impact
	# of Programmes	as % of Programmes	Payments to Programmes in question as % of total payments in the year	Risk from system deficiencies as % of total payments in the year for this Fund
* Name of Fund: European Refugee Fund III			* Programming period: 2007-2013	
* Reasonable assurance	62	79%	83%	
* Reasonable assurance with moderate impact	14	18%	17%	0,33%
* Limited assurance with significant impact	2	3%	0%	0%
* No assurance	0	0%	0%	0%

TOTAL 212 K€
TOTAL PAYMENTS MADE for ABB 1803 in 2010 156 M€
0,14%

* Name of Fund: European Return Fund			* Programming period: 2007-2013	
* Reasonable assurance	75	96%	100%	
* Reasonable assurance with moderate impact	3	4%	0%	0%
* Limited assurance with significant impact	0	0%	0%	0%
* No assurance	0	0%	0%	0%

TOTAL 0
TOTAL PAYMENTS MADE for ABB 1802 in 2010 275 M€
0%

* Name of Fund: External Border Fund			* Programming period: 2007-2013	
* Reasonable assurance	71	77%	53%	
* Reasonable assurance with moderate impact	15	16%	47%	0,94%
* Limited assurance with significant impact	5	5%	0%	0%
* No assurance	1	1%	0%	0%

TOTAL 900 K€
TOTAL PAYMENTS MADE for ABB 1802 in 2010 275 M€
0,33%

In conclusion, the amount at risk is far below the 2% materiality threshold. In addition, DG Home Affairs did not identify any reputational risk for this area.

Impact of controls

For the Shared management Funds, there is currently no suspension of payments procedures in progress or flat rate financial corrections (foreseen or launched).

Nevertheless, following supervisory controls of DG Home Affairs, 3 payments were interrupted, for a total amount of EUR 25,7 million.

Member State	Fund	Type of payment	Year of interruption	Interrupted amount (EUR)
Italy	EIF	Final payment	2007	2.465.051
Spain	EBF	Final payment	2007	3.166.833
Spain	EBF	Pre-financing	2010	20.049.589
			Total	25.681.473

In the case of Italy (EIF), the payment was interrupted due to inconsistencies in the final report such that DG Home Affairs is unable to proceed without receiving the replies or additional information from the Member State. Issues and inconsistencies noted are not considered significant enough to have a major effect on the overall level of assurance, and they should be solved rapidly.

As regards Spain (EBF), the Audit Authority issued a negative opinion on the functioning of the management and control system for the EBF. As a consequence, DG Home Affairs initiated a close monitoring of the Spanish authorities in order to measure the impact of the deficiencies of the system on the use of the funds. An action plan was drafted by the Responsible Authority and payments are currently interrupted until the action plan is implemented as agreed with DG Home Affairs. This should be done in the coming weeks. The final payment for 2007 annual programme and the pre-financing payment for annual programme 2010 are concerned.

Decentralised management - Schengen Facility

Schengen Facility I 2004-2006 (7 Member States) – clearance of accounts procedure²:

In the framework of the clearance of accounts procedure, audit missions have been carried out in 2008 and 2009 by DG Home Affairs. The legality and regularity of transactions underlying Commission's payments were checked, as well as their eligibility and conformity to the provisions of the Facility.³

As of 31 December 2010, all final reports have been issued, following an adversary procedure with beneficiary Member States.

Overall, definitive figures are as follows:

Total payments made by the Commission (2004 -2006) (EUR)	961.453.272
Total amount declared and certified by beneficiary Member States (EUR)	925.734.490
Total unspent funds (EUR)	38.007.872
% of unspent funds vs. payments made by the Commission	3,95%
Total unduly spent funds (EUR)	25.183.913
% of unduly spent funds vs. payments made by the Commission	2.62%

Clearance of accounts controls are ex-ante controls as all payments made to the Member States were pre-financings. Therefore, the error rate of 2.62% detected during these controls is part of DG Home Affairs control strategy to detect errors before closure of the files and cannot be considered as representative of an error rate within the non audited population. This is confirmed by the analysis of the nature of errors detected in the framework of the clearance of accounts:

- 90% of the ineligible expenditure was rejected due to non compliance with operational criteria. Projects selected for operational checks have been selected following a risk analysis based on the final comprehensive report as submitted by the beneficiary Member States. In fact, all projects for which the Commission had doubts as regards the eligibility "on paper" have been checked on the spot by DG Home Affairs. Therefore, DG Home Affairs believes that these controls detected practically all expenditure presenting the risk of not complying with the operational eligibility criteria.
- Only 10% of the ineligible expenditure was rejected due to non compliance with the financial and administrative procedure foreseen in the legal basis. Errors detected were due to incorrect procurement procedures, lack of documentation, non respect of deadlines for payments and implementation. Overall, such errors represent 0,26% of

² Article 20 of Decision C(2004)248 states that: "no later than 6 months after having received the comprehensive report (...), the Commission shall communicate to beneficiary Member States the amount of expenditure recognised as chargeable to the Schengen Facility (...). To this effect, the Commission shall proceed with specific on-the-spot checks subject to no limitation or restrictions on the contents of accounts and on underlying transactions, including checks made with beneficiaries."

³ Pursuant to point 1 of Article 35 of 2003 Act of Accession, Article 1(1) of Commission Decision C(2007)494 of 20 February 2007 amending Commission Decision C(2004)248 of 5 February 2004 on the management and monitoring of the Schengen Facility as amended by Commission Decision C(2006)684 of 8 March 2006.

payments made by the Commission.

The sample subject to an audit on the spot of the compliance with the financial and administrative procedures has been selected following a risk analysis (procurement procedures finalised a few days before the end of the eligibility period, work contracts, etc.) and represented on average 30% of the expenditure certified by the Member State. Based on all these elements, DG Home Affairs believes that the remaining risk of expenditure not complying with the financial and administrative criteria in the non audited population is extremely low.

The recovery orders (seven in total) have been issued either in 2009/2010 or early 2011, out of which five have been cashed. The remaining two recovery orders concern Hungary and Poland. For Hungary, the amount to be recovered totals EUR 12,1 million and is currently disputed before the Court of Justice. Nevertheless, DG Home Affairs considers that at this stage of the procedure, there is no ground for reviewing its position.

For Poland, the clearance of account report was finalised in December 2010 and the recovery order was issued early 2011. It totals EUR 40,4 million out of which EUR 30,5 million are due to unspent funds.

For both Member States, DG Home Affairs believes that, as the payments made under the Facility were advance payments, there is no risk that the money could not ultimately be recovered, by way of offsetting by the accounting officer. It is therefore considered that there is no remaining risk associated to the Schengen Facility I.

Schengen Facility II 2007-2009 (Bulgaria and Romania):

No payments were made in 2010 by the Commission for Schengen Facility II. Nevertheless, 2010 was still a very active year for the management of the Schengen Facility II by the two Member States, as Bulgaria and Romania signed contracts until 31 March 2010, and they implemented actions and paid contractors until the end of 2010.

In 2010, DG Home Affairs carried out a continuous monitoring of the management of the Schengen Facility by Bulgaria and Romania. On-the-spot missions took place in each of the two countries in order to assess the state of play of the implementation of the instrument and the functioning to the management and control systems. A mission was carried out in June 2010 in Bulgaria and in October 2010 in Romania to check the state of play of the implementation of the contracts financed under the Schengen Facility. The outcome of the visits was positive, with a mobilisation of all bodies concerned to reach the 50% objective (the rest being used as a cash flow) and a proper functioning of the management and control systems of both Member States.

Particular attention was dedicated to Bulgaria, as a reputational event was raised in the 2008 and 2009 Annual Activity Reports, following the withdrawal of the accreditation given to the CFCU by DG ELARG. The audit mission carried out in June did not detect any significant deficiency either in the management and control system as a whole or in the public procurement procedures checked.

Therefore, no particular issues were noted vis-à-vis Bulgaria in 2010, and no reputational event is included in the present Annual Activity Report.

From the latest information available, both countries managed to reach the objective of using at least 50% of the funds available under the Schengen Facility. Bulgaria had managed to contract, implement and pay an amount of EUR 133 million exceeding the objective of EUR 129 million set by the legal basis for the Schengen and Cash-Flow Facility (50% of EUR 258 million). For Romania, the total contracted, implemented and paid amounted to EUR 352,9 million, exceeding the objective of EUR 301 million (50% of the total allocated to Romania through the Schengen and Cash Flow Facility).

The detailed final reports on the payments made by Romania and Bulgaria are due for 30 June 2011. Therefore, the clearance of accounts audits will only take place in 2011 and the contradictory procedure should be finalised in 2012.

Centralised direct management: procurements and grants

For the actions implemented under the direct management mode, the assurance is based on the capacity of the control system to detect significant and/or repetitive deficiencies. This control system is composed of different building blocks: supervision of operations by the operational directorates, the ex-ante control by the Budget and Control Unit, the Internal Procurement Committee (JPS/HPC), the ex-post controls for grants or the audits from the Internal Audit Capacity and/or the Internal Audit Service.

Indicators of legality and regularity for direct management in 2010 are described below. They include transactions made by the former DG JLS until 30 June 2010 that were later attributed to DG Home Affairs. They also include 100% of the transactions made by the SRD.

As DG Home is a newly created DG, the key indicators for legality and regularity of the underlying transactions are not directly comparable with 2009 results of former DG JLS, as it was not possible to attribute a posteriori the transactions made in 2009 to each new DG.

Inputs

In 2010, 5,2 FTE were dealing with ex-ante control in DG Home Affairs. The staff dealing with ex post controls was limited to 2,0 as ex post controls of grants are essentially externalised to Moore Stephens, using the framework contract for audits managed by DG Budget. The total payments made in 2010 relating to ex post audits amount to EUR 0,2 million.

Outputs

In total 2.585 transactions were verified in 2010 with the largest share being commitments / decommitments or amendments to grant agreements / contracts.

Grants:

185 new grant agreements have been signed in 2010 for a total value of EUR 254,9 million. 22 of these new grants were above EUR 1 million, and represented a total of EUR 206,2 million.

The auditable population is composed of the grants for which the final payment had been made in the last 5 years and that had not been audited yet. It amounts to EUR 161,6 million. The ex-post controls carried out in 2010 covered a sample of EUR 12,5 million, i.e. 7,72% of the auditable population.

Procurements:

229 new contracts have been signed following procurement procedures in 2010, for a total amount of EUR 74,3 million, i.e. an average value of EUR 0,3 million.

12 procurement procedures were above EUR 60.000 and have been therefore analysed by the internal procurement committee (JPC/HPC), for a total value of EUR 51,5 million (an average of EUR 4,3 million per file). Six of these 12 files represented negotiated procedures, mainly in relation to SISII/VIS contracts, and represented 91% of the total value of contracts analysed by the Committee.

Results of ex-ante controls

One transaction for a grant was subject to an unfavourable opinion from ex-ante verification, as compared to four in 2009 (for all DG JLS).

43 transactions⁴ were registered as exceptions in 2010:

- 33 concerned prolongations of Final Date of Implementation (FDI) for grants that had expired for more than six months;
- 5 concerned the prolongation of procurement contracts after the expiration date,
- 5 were related to deviations from the Financial Regulation and Implementing Rules: 1 legal commitment done before the financial commitment in case of a procurement contract and 4 cases of signing of a contract a posteriori and a posteriori financial commitment.

In general, 74% of the payments were processed within the time limit (against 69% for the former JLS in 2009), the average payment for the payments proceeded in time being 21,90 days (against 23,08 for JLS in 2009).

Following the procedure put in place in March 2010 to accelerate the closure of old grant files directly managed by the Commission, 76% of files pre-dating 2008 have been closed. However, this increased activity in closing old files has automatically increased the average payment time for the delayed payments (22% of payments). Consequently this average remained at a very high level (194 days against 206 in 2009 for JLS), although in general the situation has improved.

145 recovery orders were issued in 2010 for a total amount of EUR 79,22 million. 50% of this amount corresponds to invoices issued for EFTA countries contributions. 19 recovery orders have been issued following an ex-post audit, for a total amount of EUR 0,4 million (98% of which has been cashed).

⁴ It has to be noted that discussions are currently on-going in the COM on streamlining of definitions on exceptions.

The total RAL at the end of 2010 amounted to EUR 1,1 billion , of which 42% are in relation to grants/contracts signed in 2010.

All the 12 files submitted to the Internal Procurement Committee received an avis favourable, some of them with comments that the AOS needed to take into account before signing the contracts.

Results of ex-post controls and assessment of the residual risk for grants

For the management of grants, the assurance is based on the capacity of the control system. The assessment of the residual risk not detected by the control system is carried out through an analysis of the cumulative results of ex-post audits.

The main reason for ineligibility of costs is the lack of (adequate) supporting documentation (more than 50%), in particular for staff costs (pay slips, timesheets, etc.), as well as costs not foreseen in the budget (but linked to the project) or incurred outside of the eligibility period (10% in total). Efforts were made by the Authorizing Officers by Sub-delegations (as from January 2010) to analyse and better document requests for changes in the budget introduced by the beneficiary.

One important characteristic noted in relation to the ineligible costs is that in 50% of the cases, they related to expenditure incurred by partners. To address this issue, DG Home Affairs has introduced in 2009 a multi-beneficiary contract model which clearly sets out the obligations of all beneficiaries. As compared to the mono-beneficiary contracts with partners used before, where obligations of partners were not set out and signed agreements between the beneficiary and its partners were often missing, the new contract model introduced should significantly decrease the risk on non eligible expenditure due to the lack of (adequate) supporting documentation.

In qualitative terms, the weaknesses identified are not significant. The nature and scope of the weakness are well known by DG Home Affairs financial managers and as previously explained actions have been taken to correct them. The impact of such measures will be further assessed in 2011, when the ex-post controls of the multi-beneficiary grants will have started. In the meantime, the overall risk is reduced by the fact that the ex-post coverage is quite high for a given programme (between 15 and 20% as a general rule⁵) and thus errors are detected and corrected.

In quantitative terms, the raw result of the audits carried out and finalised in 2010 (error rate of 1%) cannot be directly extrapolated to the whole population of grants for which a final payment was made in 2010. Indeed, the ex-post control sector applies a "detection strategy" aimed at detecting a maximum of anomalies in view of recovering undue payments. Based on this strategy, the audits are carried out on a sample of projects selected on the basis of a risk analysis (new beneficiaries, issues identified by the AOS at closure, etc.). This is why the error rates identified during these controls are often high but are not representative for the total population.

DG Home Affairs therefore estimated a rate of potentially undetected errors for each programme/year in the non-audited population based on post audit results, audit coverage and analysis of the programme. This rate is then applied to the non-audited population

⁵ This figure is only known once the 5 years after the final payment are over.

and an amount at risk is defined. When the programme will be later audited after 2010, the amount at risk will be lower than the raw amount at risk previously determined. To be coherent, the results of this detailed analysis are taken into account for the subsequent ex-post controls annual plans, as a criterion to target the projects to be audited. Finally, the amount at risk is compared to the payments made in 2010 under the same ABB activity. Further details can be found under Annex 4.

As a result, the amounts at risk by ABB activity are: 0.12% of the payments made in 2010 under 18 02 ABB activity, 0.91% in case of 18 03 ABB activity and 1.28% for 18.05 ABB activity.

Decentralised agencies

Information regarding the use of the assigned resources by the agencies is provided by the Court of Auditors and Internal Audit Service. The IAS acts as the internal auditor for the agencies, while the European Court of Auditors gives yearly a statement of assurance as to the reliability of the annual accounts of the agency and the legality and regularity of the transactions underlying them. Based on these, the European Parliament grants discharge directly to the agencies.

(a) Cepol

In its report for 2009, the Court of auditors gave an unqualified opinion on the reliability of the accounts of the agency. The opinion on the legality and regularity of the transactions underlying the accounts is qualified, based on procurement procedures handled by non-qualified staff or severe shortcomings in connection to the organisation of courses and seminars. The agency's replies described the actions taken to remedy the shortcomings.

In 2010, the IAS issued one final report addressed to Cepol. The objective of the audit was to assess the progress made by Cepol in implementing the remaining actions related to the critical and very important recommendations from two IAS audits⁶ conducted between 2007 and 2009. The auditor assessed that all the remaining recommendations from the two audits have now been adequately implemented except for two of them which have been downgraded in consideration of the significant progress made.

In its 2008 and 2009 AAR, the former DG JLS identified as a reputational event the serious financial issues faced by the agency.

The 2009 year was still marked by significant weaknesses in Cepol. The 2009 discharge reports drafted by the Parliament available at this moment show that it is still highly expectable that the European Parliament would refuse to grant the discharge for Cepol for 2009 also. In its opinion voted on 28 February 2011, LIBE committee advises not to grant discharge to Cepol. The COCOBU committee is proposing in its draft opinion to postpone or even reject the discharge. The vote will be held on 11 April 2011. As a result, Cepol continued to represent a reputational event also in 2010. Nevertheless, the

⁶ 2009 Audit on "Missions" and 2007 audit on "Implementation of the Internal Control Standards" with follow ups conducted in 2008 and 2009 respectively.

positive developments of 2010 year under the management of the new director (please see 2.1.4), as well as the positive feedback received from the audits performed in 2010 (IAS) does not qualify Cepol as a significant reputational event requiring issuing of a reservation.

(b) Europol

Europol was established on 1 July 1999 as an inter-governmental agency. On 1 January 2010, Europol became a European Union (EU) agency, funded from the general budget of the Union and subject to the EU Framework Financial Regulation. As a consequence, there is no Court of Auditor report for 2009 year.

In 2010, the IAS conducted a Limited review of the implementation of the Internal Control Standards in Europol, for which the final report was issued in January 2011. The final report included 20 recommendations, of which none critical and five very important. The agency set a clear course of action to respond to and follow up on the identified improvements potentials, as part of the broader scope of the agency to complete the transition into an EU agency.

(c) EASO

As in 2010 the agency was still in its start-up phase, the Commission ensured the financial management of the agency. The EASO founding Regulation provides that the Office will be fully operational by 19 June 2011.

(d) Frontex

In its report for the 2009 year, the Court of Auditors gave an unqualified opinion both on the reliability of the accounts of the agency and on the legality and regularity of the transactions underlying the accounts. The Court's report included recommendations regarding the budgetary and financial management, i.a. a better monitoring of activities to avoid high amounts of carry over and cancellations or over statement of costs. The agency's replies described the actions taken to remedy the shortcomings.

In 2010 IAS carried out an audit on "Operational Planning based on internal and external stakeholders' input". The aim was to assess whether the internal control system provides reasonable assurance regarding the adequacy and effectiveness of key controls in the operational planning process ensuring the involvement of stakeholders and the exchange of relevant information in the planning process. Nine recommendations were issued, of which one very important regarding the coherence of strategic and annual planning of operations. The agency's replies described the actions taken to remedy the shortcomings.

(e) EMCDDA

In its report for 2009, the Court of Auditors gave an unqualified opinion both on the reliability of the accounts of the agency and on the legality and regularity of the transactions underlying the accounts. The Court's report included recommendations regarding the budgetary and financial management, i.a. a better monitoring of activities to avoid high amounts of carry over. The agency's replies described the actions taken to remedy the shortcomings.

In 2010, the IAS conducted an audit on the Management of Outputs for External Communication in EMCDDA, for which the final report was issued in September 2010. The final report included 6 recommendations, of which none "very important". The agency's replies described the actions taken to remedy the shortcomings.

3.1.2. Building block 2: Results from audits during the reporting year

Court of Auditors' yearly report – DAS 2009

In the Court of Auditors' annual report for 2009, issued on 9 November 2010, the former DG JLS is referred to under the policy group "Education and Citizenship", together with DG EAC and DG COMM. Consequently, there is no specific opinion of the Court on the former DG JLS.

However, the elements of the reports that are of relevance for DG Home Affairs are the following:

Error rate in the DAS sample:

The 2009 DAS confirms the 2008 positive results for the Chapter 7 - Education and Citizenship, with an error rate oscillating year-on-year around 2%. (close to 2% in 2009 after having been below 2% in 2008). Although there is a slight rise in the error rate from 2008 to 2009, the Court noted that results are not directly comparable because of the differences in the audit approach.

For DG JLS, even if the structure of the sample had changed significantly⁷, the percentage of transactions tested affected by errors for DAS 2009 remained at the same level as in the DAS 2008 at 17,8%, i.e. 8 transactions affected by errors among the 45 JLS transactions tested (30% of the total sample for Chapter 7). No errors were found in the advance payments checked.

Assessment of the systems:

The Court's assessment of the systems was focused on closures of programmes and projects made by the Commission. The overall assessment is that the supervisory and control system were partially effective in ensuring the regularity of closures made in 2009. The same assessment was made for the 2008 systems.

This assessment is mainly due to the several "wrongly booked" payments for SISII/VIS contracts. DG JLS explained that they are in fact corrections to balance a previously 2008 wrongly encoded payment in ABAC, detected by the DG's control system.

⁷ 2008 sample: 85% advance payments and 15% final payments; 2009 sample: 20% advance payments and 80% final payments. The payment pattern in JLS was 83% advance payments and 17% final/interim payments. The risk of error for interim and final payments is considered higher than for advance payments.

Assessment of the management representation:

Regarding the assessment of management representations in the Annual Activity Report, the Court considers that for the whole chapter "Education and Citizenship", the directors general' declarations and the AARs give a fair assessment of financial management in relation to legality and regularity. Nevertheless, the Court mentions that 2 reputational events were included in the 2009 AAR of DG JLS (Cepol and Schengen Facility Bulgaria) but had not given rise to a reservation despite the fact that these "events" were already quoted in 2008.

Preparation of 2010 DAS report

For its audit for 2010, the Court included DG HOME in the chapter with DG Justice, ECFIN, COMP, MARKT, EAC, COMM, TRADE, ENTR, INFSO, RTD, JRC and the corresponding Executive agencies.

IAS audits

IAS issued one final report in 2010 referring to Fraud prevention and detection in the former JLS. The report included eight recommendations, of which three "very important", requiring DG Home to elaborate, in cooperation with OLAF, an anti-fraud strategy.

In 2010 the IAS carried out a horizontal audit on IT project initiation in the Commission. The final report does not include any recommendations addressed to DG Home Affairs. The IAS expressed however specific remarks identified during the audit engagement in the Management Letter addressed to the Director General inviting to take them into account in the future IT projects. No follow-up audit will be performed on these issues.

SIAC audits

The IAC completed one audit and followed-up five previous audits in 2010. According to the IAC's opinion, the internal control system in place in DG Home Affairs provides reasonable assurance regarding the achievements of the business objectives set up for the processes audited.

SIAC issued one final report in 2010, regarding the Annual assurance on SOLID funds. The audit included four recommendations, of which none very important.

3.1.3. Building block 3: Follow-up of previous years' reservations and action plans for audits from previous years

A) Follow-up of action plans for audits from previous years

SIAC audits

Five audits were followed up by IAC in 2010:

- ✓ Follow up Audit on External Borders Fund: the final report issued in December 2010 concluded that two of the three important open recommendations resulting from the original audit have been adequately and effectively implemented, while the remaining recommendation was still in progress.

- ✓ Follow up audit on Selection and awarding of grants in direct management: in the final report distributed in December 2010, the auditor assessed that all the recommendations resulting from the original audit have been adequately and effectively implemented.
- ✓ Follow up audit on the management of the financial relationship between the Commission and agencies: the final report, finalised on 3 February 2010 mentioned that all the recommendations resulting from the original audit have been adequately and effectively implemented.
- ✓ Follow up audit on the documentation of financial procedures: the final report issued in February 2010 assessed as implemented six recommendations, while two others had become obsolete since the completion of the original audit and therefore closed.
- ✓ Follow up of the audit on procedures for liquidation of commitments (RAL) for directly managed grants: the final report issued in April 2010 mentioned that all the recommendations resulting from the original audit have been adequately and effectively implemented.

IAS audits

Two audits were followed up in 2010 by IAS:

- ✓ Follow up Audit of the Grants under Shared Management of the European Refugee Fund: out of the 23 recommendations issued in 2008, 21 have been assessed by IAS as implemented. The two remaining open recommendations have been downgraded from "very important" to "important".
- ✓ Follow up Audit on IT procurement: all the recommendations have been assessed as implemented by IAS and the audit was closed.

There are two other IAS audits for which no follow up has yet been conducted:

- ✓ Audit on grant management of the *Schengen* Facility in DG JLS (final report issued on 15.09.2009). The report included one "very important recommendation" related to aligning of future accession instruments to the existing framework of the EBF. The provisions in the accession treaty for Croatia regarding a financial support from the EU for the implementation of the Schengen acquis should take into account the experience gained by DG HOME from the management of the Schengen facilities I and II. The objective of DG Home Affairs will be to strengthen the legal basis of these instruments, to reinforce the control mechanisms and to avoid the inclusion of a cash-flow part in these future instruments.
- ✓ Audit on Business Continuity (final report issued on 15.09.2009). There are four open "very important" recommendations referring to performance of Business Impact Analysis (BIA) and impact on BC arrangements, identifications and interdependencies, action-oriented design of the BC Plan arrangements, testing and exercising, financial and human resources. The implementation is in process.

The recommendations are planned to be completely implemented by the end of 2011.

DG BUDGET report on validation of local accounting system

The former DG JLS had not received the validation of its local system for financial transactions for 2008 and 2009. The major criticisms formulated by DG BUDG concerned the bad management of fixed assets and poor accounting quality, especially with regard to late registration and slow processing of old invoices.

The DG continued making progress throughout 2010 addressing deficiencies identified by the Accounting Officer in his 2008 and 2009 reports.

- A referencing system was built-up, identifying asset-related commitments allowing following subsequent steps in the procedure.
- Substantial resources were dedicated to build-up extensive accounting guidelines based on the Commission Accountant's instructions, e.g. cut-off manual, manuals on tangible and intangible fixed assets, manual on clearing pre-financings and an invoice manual. These guidelines are available to all financial staff.
- An accounting quality plan is now set up; regular controls on assets, pre-financings and invoices are performed and documented.
- Timely clearing of old invoices and pre-financings is ensured within the accounting quality controls. Units are directly contacted and receive assistance in processing the outstanding transactions. However, long processing time to clear pre-financings is due to specific grant agreements made by DG Home Affairs generally requiring cost claims only at the end of the project.
- Comprehensive monitoring on invoice registration, open pre-financing, expired commitments (Final Implementation Dates), and recovery orders is carried out monthly.

All the efforts taken to improve accounting quality in the DG were examined by DG Budget within the follow-up audit on validation of local accounting systems carried out in the last quarter of 2010. As a result, DG BUDG lifted its reservation on validation. The remaining recommendations (two very important, one important) concern late registration of invoices and clearing old invoices and open pre-financings.

B) Follow-up of 2009 AAR reservations

In its 2009 AAR, JLS issued two reputational reservations:

a) Reputational damage due to delays in the completion of the SIS II project

A reservation on SIS II was included in AAR 2009 due to reputational damage resulting from a delay, following on from technical issues that emerged during the operational testing in mid-2008.

A detailed action plan has been fully implemented and the outlook for SIS II is considerably more positive than at the start of the 2010 reporting period. The root cause of this reservation (failure by the main development contractor over a prolonged period to fully resolve the technical issues which emerged during the operational testing), is now no longer an issue as the milestone 1 test requested by the June 2009 JHA Council was successfully passed and the reputational situation related to it has been redressed. The April 2010 JHA Council, taking account of the milestone 1 result confirmed that the project would move ahead on the basis of the SIS II technical solution until the next evaluation point (milestone test to be completed in mid-2012). A time schedule for completing the project by March 2013 was finalized in close cooperation with stakeholders and presented to the JHA Council in October 2010 together with a revised budget for SIS II development. New requirements were also finalized in close cooperation with the Member States, to take account of their additional needs for the future entry into operations of SIS II, including a significant increase in capacity of the system. A development contract to implement these additional requirements was signed in December 2010. Action continued throughout the year to fully involve Member States in all project related developments. At the end of 2010 the European Parliament decided to put SIS II budget appropriations for 2011 into the reserve. As a result of the information provided by the Commission, the European Parliament finally decided to only release 2/3 of the budget appropriations. The Commission continues to keep the European Parliament informed of developments related to SIS II and is maintaining continuous dialogue with a view to releasing the remaining appropriations.

The actions taken by DG JLS/Home Affairs can be summarized as follows:

✓ Enhanced Governance:

Enhancements to governance, including enhancements to the SIS II Global Project Management Board structure, were achieved via the adoption in June 2010 of the Regulations amending the legal instruments for migration from SIS 1+ to SISII (Council Regulations 541/2010 and 542/2010). All stakeholders are kept regularly informed as to the evolutions in the file either within the regular steering structures (SIS/VIS Committee and Council groups insofar as Member States are concerned) or by way of the reporting obligations provided by the SIS II legal basis (as far as the European Parliament is concerned).

Technical press briefings were also organised on 31/5 and 4/10/2010 to address specific questions by the media prior to the April and October 2010 JHA Councils.

✓ **Technical measures**

The Commission has rigorously supervised and monitored the contractor's work throughout the reporting period, in close cooperation with the Member States and the quality assurance contractor. The formal test results for the milestone 1 test were analysed via 3 independent tools and the test reports were provided on track in Q1/2010). The April JHA Council took note of the positive outcome of these tests.

✓ **Contractual and Financial Measures**

Liquidated damages amounting to EUR 395,000 for failure of the SIS II OST were fully recovered. Other sanctions will be imposed if necessary. A contract was signed in December 2010 to implement the additional requirements requested by Member States for the entry into operation of SIS II. This contains stringent provisions, including a resolute clause in the event of failure of the milestone 2 test.

✓ **Legal issues and future scenarios**

As the April 2010 JHA Council concluded that work should continue on the basis of the SIS II technical solution, an alternative technical solution was not required. Nevertheless, the Commission has cooperated with France to ensure that a delegation act and related procurement procedures can be triggered if an alternative solution is needed on completion of the milestone 2 test (mid-2012).

Against this background of positive developments, new risks have emerged with the re-launching of the project. If these risks were to materialize, they would probably impact both the agreed schedule and the budgetary envelope, as indicated by the Commission to the Council and the Parliament in October 2010.

The main events supporting these risks are the following:

i) Information from the Member States on readiness of SIS II national projects

The new specifications for the system, which *inter alia* entail a very significant capacity increase, require further technical developments (implying both software and hardware upgrades) both at central and national levels. However, due the uncertainties surrounding the future of the project as from 2009, many SIS II national projects had been put on hold. The need to reactivate these national projects did not necessarily coincide with Member States budgetary cycles. Hence the corresponding budgetary allocations had not always been planned neither for 2010, nor 2011. Furthermore, the availability of additional financial resources for SIS II is problematic in most Member States. To mitigate this risk and in order to address Member States' concern over the need for additional national funding for SIS II, Commission services have been working closely with Member States' authorities with a view to identifying their respective funding needs and fitting them within the framework of the External Borders Fund (EBF). This process is ongoing. According to the agreed global schedule, national developments are expected to be finalised by the end of Q1 2011, so as to start the first testing activities with the first group of 8 Member States as from mid-April 2011. Should certain Member States fail to finalise their national development in time for testing, then the global schedule could be jeopardized.

ii) Inability to make SIS1 environment available in due time

The migration of data from SIS1+ to SIS II is expected to be one of the most delicate phases in the project. The legal instruments regulating this 'migration' provide for a thorough testing phase (notably of the converter) prior to the actual migration of real data. This phase requires the availability of test environments to simulate the behaviour of the current SIS1+. However, in its capacity of operator for the SIS 1, France has informed the Commission that it would not be able to make these test environments available in due time, due to resource conflicts with the current SIS1+ upgrading activities. This position was also supported by the rest of the Member States acting within the SIS 1 institutional framework. A thorough analysis with Member States experts led to the conclusion that the only mitigation option would be for the Commission to purchase a 'clone' testing environment to the SIS 1+ hardware provider. This option entails additional costs on top of those initially forecasted and presented to the Council and the Parliament in October 2010, and is likely to impact the global schedule.

In light of the above, despite the fact that the outlook for SIS II is more positive than at the start of the 2010 reporting period, it is considered, given in particular those events/information that emerged at the beginning of 2011, that the environment of the SIS II project and the reputational situation are insufficiently stabilized for the time being to warrant the lifting of the reservation.

b) Reputational damage due to delays in the completion of the VIS project

A reservation on VIS was included in the AAR 2009, due to reputational damage resulting from a delay in the completion of the VIS project. As reported fully in the AMP 2011, all actions in the action plan for this reserve have been fully implemented. The root cause of this reservation (materialisation of a delay in the SST tests) disappeared as these tests have been ultimately completed and corrective measures were implemented. The project has moved on to the third stage of testing (operational tests), which started on 23 August 2010 and ended on 14 February 2011. These tests were satisfactory from a functional point of view. However, in agreement with the Member State experts the Commission decided to grant to the Main Development Contractor a remediation period until 16 March 2011 in order to solve the few outstanding issues. This should not impact the start of the fourth and final testing phase in March 2011, for which preparatory activities are currently taking place with Member States.

The actions taken by DG JLS/Home Affairs can be summarized as follows:

✓ **Close cooperation with stakeholders (and other actions to redress the reputational situation of the project)**

Member States

Relations with the Member States remain positive. Regular meetings and discussions with stakeholders on VIS-related developments have taken place throughout 2010 and early 2011 in various project-related forums. A new Master Project Schedule for VIS was finalized in mid-2010 in close cooperation with the Member States.

European Parliament

The Commission services have continued to keep the European Parliament fully informed of developments related to VIS.

Press

The Commission continues to keep a close eye on the press, which in general has paid considerably less attention to VIS in recent months. There have been a few isolated negative articles, but not critical towards the project or the Commission and, on a brighter note, a number of positive messages about the project and readiness of Member States.

✓ **Technical measures**

Considerable progress was made on a technical level in 2010. The technical issues that emerged during the tests on the central system in the latter part of 2009 and first half of 2010 have meanwhile been resolved. The operational tests to verify the central system in interaction with seven national systems were completed on 14 February 2011. The Main Development Contractor has a remediation period until 16 March 2011 in order to solve the few outstanding issues, which would allow the acceptance of this testing phase.

✓ **Financial matters and supervision of the contractor**

The Commission services closely supervise the main development contractor on a continuous basis, in cooperation with the quality contractor and the Member States. Penalties of EUR 7.6 million related to delays in completion of the previous set of tests on the VIS central system were fully offset in 2010. Further sanctions will be applied on the contractor should these prove necessary.

✓ **Follow-up of the situation with the MS and national planning**

Steps are also being taken to avoid additional reputational damage due to the possibility of delays in national development and other preparations for deployment. The new Master Project Schedule offers Member States more time for preparations, including preparations at borders and at consular posts. Member States are asked to provide monthly reports on the status of their national VIS developments and this matter is regularly discussed at the Friends of VIS (FoVIS) group, at the National Project Manager meetings and in other forums.

In order to mitigate the risk that certain external border crossing points (BCPs) may not be adequately equipped in time for the start of VIS operations in mid-2011, monitoring of their preparations has been stepped up in the framework of a Presidency initiative supported by the Commission. This includes a requirement to submit detailed state of play of their deployment plans.

However, in spite of this careful planning, it is already clear that a handful of Member States will not be fully ready in time to declare their readiness for June 2011, as planned.

In addition, recent developments in the political situation in North Africa (the first roll-out geographical region) will certainly also influence preparations. Conflicting priorities of consulates in North African will lead to some implementation delays for reasons that have nothing to do with the readiness of the IT systems. Such delays could in turn impact the decision about when the system should start operations.

Conclusion

In light of the above events, whilst risks at central level have considerably decreased, the state of developments of national preparations in certain Member States, as well as the political situation in certain North African countries could jeopardize the schedule for entry into operations of the VIS, hence leading to possible reputational damages for the Commission. For that reason, there is no sufficient ground to lift the reservation on VIS.

3.1.4. Building block 4: Assurance received from other Authorising Officers in cases of crossed sub-delegation

In 2010 DG Home Affairs cross sub-delegated appropriations to the following services:

- **DG DIGIT** for the budget lines 18.03. and 18.0509

DG DIGIT's report was received on 3 February 2011. Its main provisions are presented below:

- a) EURODAC – budget line 18.0311

The scope of the crossed sub-delegation, as presented in the Memorandum of Understanding signed between the two DGs, covers all costs of support services related to the usage of the current Eurodac Service Level Agreement signed on the 12/11/2010 and identifies three stakeholders involved in the delivery of the services, their roles and responsibilities.

- b) European Action on Drugs – budget line 18.0509

The signed Memorandum of Understanding covers the hosting requirements costs of the European Action on Drugs website specially designed as a comprehensive dissemination tool available on line, a meeting point for signatories and applicants for network communication, a comprehensive and living web resource and complementary website of DG Justice.

In 2010, DIGIT installed and supported the infrastructure according to the specification described in the two Hosting Proposals attached to the MoUs. All technical requirements are in line with the operational needs and match DIGIT standard hosting. No particular technical problem was encountered so far.

The state of play at the end of 2010 regarding the subdelegated appropriations was:

Budget line	Commitments (€)		Payments (€)	
	Total credit	Total consumption	Total credit	Total consumption
18.0311	51.860,68	51.860,60	0,00	0,00
18.0509	53.550,00	53.546,39	0,00	0,00

The amounts used for support services or for procurement of materials for the data centre.

The use of the sub-delegated resources was done in the framework of the internal control system put in place by DG DIGIT, in conformity with the Commission's standards. There is no IAC, IAS or Court of Auditors' recommendation in relation to the sub-delegated programmes.

➤ **DG ESTAT** for the budget line 18.05.09/Prevention and fight against crime

DG ESTAT's report was received on 2 February 2011.

The state of play at the end of 2010 regarding the subdelegated appropriations was:

Budget line	Commitments (€)		Payments(€)	
	Total credit	Total consumption	Total credit	Total consumption
18.0509	Amounts authorised in the SLA: up to 5,150,000	0,00	Amounts authorised in the SLA: up to 5,150,000	770.224,38

DG ESTAT made seven payments on the DG Home Affairs' sub-delegated budget on commitments signed during previous years. The amount of RAL for the respective commitments is EUR 262,590.67. The use of the sub-delegated resources was done in the framework of the internal control system put in place by DG ESTAT, in conformity with the Commission's standards. No special issues were raised in the report.

➤ **DG JUSTICE**

DG Justice's report was received on 4 February 2011. The state of play at the end of 2010 regarding the subdelegated appropriations was:

Budget line	Commitments (€)		Payments(€)	
	Total credit	Total consumption	Total credit	Total consumption
18.0509/C1	700.000,00	700.000,00	0,00	0,00
18.070101/C1	2.953.875,38	2.923.028,00	2.923.028,00	2.923.028,00
18.070102/C1	796.972,00	796.972,00	796.972,00	796.972,00
18.070102/C4	227.166,13	0,00	227.166,13	0,00

a) Budget line 18.0509 ISEC Internal Security Drugs related issues

In December 2010, one level 1 commitment was done by DG Justice for the amount of EUR 700.000. The funds have been reserved for several studies and meetings. Due to the

late arrival of the funds (sub-delegation given by DG Home Affairs in November 2010) it was not possible to advance these procurement actions up to a signature in 2010. The actions will be undertaken in 2011.

b) Budget line 18.07 – EMCDDA agency

Following the split of DG JLS, the financial management of EMCDDA has temporarily been assigned to SRD. Based on the cashflow statements provided by the agency, SRD analysed the cash needs of the agency and paid two tranches of the 2010 subsidy. Since November 2010, the agency's budget has been allocated to DG Home Affairs, but managed by DG Justice by a way of a crossed-subdelegation.

➤ **OPOCE**

No crossed-subdelegated appropriations have been used by OPOCE in 2010.

3.1.5. Completeness and reliability of the information reported in the building blocks

The information reported in the building blocks (3.1.1 – 3.1.4) covers all the budget delegated to the AOD and is based on the most reliable information available as at 31 March 2010.

3.2. Reservations

SIS II

DG/service	DG HOME
<u>Title of the reservation, including its scope</u>	Reputational damage due to new risks likely to delay completion of the SIS II project
<u>Domain</u>	Centralised direct management
<u>ABB activity and amount</u>	<p>ABB Activity</p> <p>18.02 "Solidarity External borders, return, visa policy and free movement of people"</p> <p>Payments made in 2010: EUR 274,65 million</p> <p>SISII</p> <p>18 02 04 Schengen Information System II</p> <p>Payments made in 2010: EUR 17,98 million</p>

<p><u>Reasons for the reservation</u></p>	<p>A reservation on SIS II was included in AAR 2009 on the basis of reputational damage suffered in late 2009 and early 2010 following a delay caused by technical issues during the operational testing in mid-2008. The action plan for addressing the technical issues as well as the perception of the weaknesses was fully implemented and the root cause of the reputational damage incurred at that time is no longer an issue. Although the general outlook for the central SIS II project is considerably more positive, further reputational fall out is starting to materialize, due to two entirely separate events that have recently become a focal point of attention:</p> <p>i) Inability to make the SIS1+ testing environment available in due time</p> <p>The migration of data from SIS1+ to SIS II is expected to be one of the most delicate phases in the project. The legal instruments regulating this 'migration' provide for a thorough testing phase (notably of the converter) prior to the actual migration of real data. This requires a test environment to simulate the behaviour of the current SIS1+. However, in its capacity of operator for the SIS 1, France informed the Commission in January 2011 that it will not be able to make this environment available on time, due to resource conflicts with the current SIS1+ upgrading activities. France's position was also supported by the other Member States acting within the SIS 1 institutional framework. A thorough analysis with Member States experts led to the conclusion that the only option would be for the Commission to purchase such a testing environment. This entails additional costs on top of those presented to the Council and the Parliament in October 2010, and is likely to impact the global schedule.</p> <p>ii) Information from the Member States on readiness of SIS II national projects</p> <p>The new specifications for SIS II entail inter alia a very significant capacity increase implying both software and hardware upgrades at national level. However, due the uncertainties about the future of the project as from 2009, many SIS II national projects had been put on hold. The need to reactivate these national projects did not necessarily coincide with Member States' budgetary cycles. Hence the corresponding budgetary allocations had not always been planned neither for 2010, nor 2011. This situation is exacerbated by the general economic climate and widespread budget cuts in many Member States.</p>
<p><u>Materiality criterion/criteria</u></p>	<p>The reservation is reputational.</p>

<u>Quantification of the impact</u>	<p>Although the underlying causes are entirely separate from those invoked for the reservation made in AAR 2009, the impact of further reputational damage is likely to be all the more severe at this stage, due to cumulative effect on top of the reputational damage previously incurred. This would result in a long term negative perception of the project amongst stakeholders with an extensive interest in the project.</p> <p>This was made visible during the discussions held in 2010 on the 2011 budget, when the European Parliament decided to put SIS II budget appropriations for 2011 into reserve. As a result of the information provided by the Commission, the European Parliament finally decided to release 2/3 of the budget appropriations.</p>
<u>Impact on the assurance</u>	Reputational impact
<u>Responsibility for the weakness and its correction</u>	<p>Although the root causes of the current reputational situation are largely external, there is obviously a certain degree of involvement of DG HOME, due to its responsibility for the implementation of the SIS II central project. The role of DG Home Affairs is perceived as central in any development linked to SISII:</p> <ul style="list-style-type: none"> • The risk of a delay in national projects is partially attributed by Member States to earlier delays in the central SIS II project • The Commission recently took over responsibility for implementing a solution for providing the SIS1+ test platform.
<u>Corrective action</u>	<p>The Commission will do everything within its powers to mitigate the risks.</p> <p><u>A. Actions to address the current events</u></p> <p>1. Follow-up of national developments and action to fit national SIS II-related financial needs within the EBF framework (ongoing)</p> <p>To mitigate the risk of delays in re-activation and completion of national projects, Commission services have been working closely with Member States' authorities with a view to identifying their respective funding needs and fitting them within the framework of the External Borders Fund (EBF). This process is ongoing.</p> <p>Follow-up of national developments has also been stepped up. The SIS II Task Force⁸ carried out a survey of progress with national developments in November 2010 and progress with national developments is discussed</p>

⁸ A group of Member State experts established in accordance with the Council conclusions of 5 October 2006.

	<p>at the monthly National Programme Managers' meetings.</p> <p>2. Implementation of the SIS1+ test platform by June 2011</p> <p>Close cooperation with the French authorities (validation of technical specifications, participation in the evaluation of offer, validation of the final installation), with a view to benefiting from French SIS1 expertise and implementing procurement procedures as swiftly as possible.</p> <p>Close follow-up of the future contractor's work, to ensure that the timeline for delivery is kept to a minimum.</p> <p>Despite this action there is still a residual risk of delay, due to the late stage at which the Commission took over this activity from the French authorities, which consider the preparation for the alternative scenario SIS I+Re as the main priority.</p> <p>B. Close cooperation with stakeholders:</p> <p>All stakeholders are kept regularly informed as to the evolutions in the file either within the regular steering structures (SIS/VIS Committee and Council groups insofar as Member States are concerned) or by way of the reporting obligations provided by the SIS II legal basis (as far as the European Parliament is concerned).</p>
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VIS

DG/service	DG HOME
<u>Title of the reservation, including its scope</u>	Reputational damage due to delays in the entry into operations of the VIS project
<u>Domain</u>	Centralised direct management
<u>ABB activity and amount</u>	<p>ABB Activity</p> <p>18.02: "Solidarity External borders, return, visa policy and free movement of people"</p> <p>Payments made in 2010: EUR 274,65 million</p> <p>VIS</p>

	18.0205_Visa Information System Payments made in 2010: EUR 23,50 million
<u>Reason for the reservation</u>	<p>A reservation on VIS was included in the AAR 2009, due to reputational damage resulting from a delay in the completion of the VIS project. The action plan for this reservation has been fully implemented. The root cause of the reservation (materialisation of a delay in the SST tests) disappeared as these tests have been ultimately completed and corrective measures were implemented. Despite the fact that the situation for the central project managed by the Commission is significantly more positive than in the previous reporting period, new events have materialized which are likely to lead to a delay in the date for entry into operations of the system and thus cause reputational damage to the Commission.</p> <p>In order for VIS to enter into operations, Member States also need to complete national preparations (completion of national developments and preparation of borders and consulates). It is already clear that a handful of Member States will not be ready on time with national preparations. Furthermore, the political situation that has already materialized in certain North African countries will lead to possible delays in the regional roll-out have nothing to do with the readiness of IT systems (impacting on the schedule for actual for entry into operations of the VIS)⁹.</p>
<u>Materiality criterion/criteria</u>	The reservation is reputational
<u>Quantification of the impact</u>	As the Commission is responsible for the implementation of the central VIS project, it is likely that any further delays incurred in entry into operations of the system would lead to reputational damage for the Commission, even in the event that they are due to externalities. The impact of further reputational damage is likely to be all the more severe at this stage, due to cumulative effect on top of the reputational damage previously incurred. This would result in a long term negative perception of the project amongst stakeholders with an extensive interest in the project.
<u>Impact on the assurance</u>	Reputational impact

⁹ North Africa is the first geographical region designated for the roll-out of VIS.

<p><u>Responsibility for the weakness and its correction</u></p>	<p>Although the root causes of the current reputational situation are largely external, there is obviously a certain degree of involvement of DG HOME, due to its responsibility for the implementation of the VIS central project. The role of DG Home Affairs is perceived as central in any development linked to VIS.</p>
<p><u>Corrective action</u></p>	<p>Even if the root causes of the current reputational situation are largely external, DG HOME should take any possible action within its scope of competence to mitigate these risks.</p> <p>A. Close cooperation with stakeholders (and other actions to mitigate reputational damage) (continuous until June-2011)</p> <p>All stakeholders (Member States, European Parliament, press) are kept regularly informed as to the evolutions in the file either within the regular steering structures (SIS/VIS Committee and Council groups insofar as Member States are concerned) or by way of the regular reporting as far as the European Parliament is concerned.</p> <p>B. Follow-up of the situation with the MS and national planning (continuous until June-2011)</p> <p>1 Reporting on national developments</p> <p>Steps are also being taken to avoid additional reputational damage due the risk of delays in national development and other preparations for deployment. Member States are asked to provide monthly reports on the status of their national VIS developments and this matter is regularly discussed at the Friends of VIS (FoVIS) group, at the National Project Manager meetings and in other forums.</p> <p>2 Monitoring of national preparations</p> <p>In order to mitigate the risk that certain external border crossing points (BCPs) may not be adequately equipped in time for the start of VIS operations in mid-2011, monitoring of their preparations has been stepped up in the framework of a Presidency initiative supported by the Commission. This includes a requirement to submit a detailed state of play of their deployment plans.</p> <p>However, in spite of this careful planning, it is already clear that a handful of Member States will not be fully ready in time to declare their readiness for June 2011, as planned.</p> <p>3. Actions to take account of the situation in North Africa</p> <p>Various scenarios are under discussion, including i) deferral of the date when the system comes into operation ii) the possibility of restricting the geographical zone in which VIS will be made ready for operations iii) the possibility of starting roll-out in another zone (but this will be difficult within the same time frame due to the need to adopt a comitology decision and for Member States to make extensive advance preparations)</p>

4. DECLARATION OF ASSURANCE

I, the undersigned,

Director-General of DG Home Affairs

In my capacity as authorising officer by delegation

Declare that the information contained in this report gives a true and fair view ¹⁰.

State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.

This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, ex-post controls, the work of the internal audit capability, the observations of the Internal Audit Service and the lessons learnt from the reports of the Court of Auditors for years prior to the year of this declaration.

Confirm that I am not aware of anything not reported here which could harm the interests of the institution.

However the following reservations should be noted:

- Reputational damage due to delays in the completion of the SIS II project*
- Reputational damage due to a delay in the entry into operation of the VIS project*

Brussels, 29 March 2011

[signed]

Stefano MANSERVISI

¹⁰ *True and fair in this context means a reliable, complete and correct view on the state of affairs in the service.*