



## EUROPEAN COMMISSION

*Brussels, 6.7.2017  
C(2017) 2552 final*

*Mr Gérard LARCHER  
President of the Sénat  
Palais du Luxembourg  
15, rue de Vaugirard  
F – 75291 PARIS*

*Dear President,*

*The Commission would like to thank the Sénat for its Opinion on the need to reinforce law enforcement cooperation in Europe and on parliamentary scrutiny of Europol's activities.*

*The Commission welcomes the Opinion of the Sénat and shares the view that current threats to the security of European citizens cannot be tackled without a common effort and enhanced cooperation between Member States.*

*Topics such as interoperability and law enforcement access to different databases mentioned in the Opinion are currently high on the agenda, which has led to several legislative proposals either making changes to existing instruments – for example the Schengen Information System - or establishing new tools – for example a European Travel Information and Authorisation System (ETIAS).*

*The Commission takes note of the Opinion of the Sénat on the need for a systematic recording of entries and exits of the Schengen area, including for the nationals of Member States. The High Level Expert Group established by the Commission also identified an information gap related to external border crossings of EU citizens. In this regard, the Commission would like to provide the following clarifications and comments.*

*The amendments to the Schengen Borders Code that allows for systematic checks on all travellers at the Schengen borders, including European Union citizens, entered into force in April 2017.*

*As regards the proposed Entry/Exit System to register entry/exit data of third-country nationals crossing the Schengen borders, negotiations on the Regulation proposed by the European Commission in April 2016<sup>1</sup> are ongoing. The European Council called for agreement to be reached between co-legislators by mid-2017 which would allow for developing the system as of 2017 and for its entry into operation in 2020.*

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<sup>1</sup> COM(2016) 194 final.

*The High level experts group in its discussions noted that the time and place of these systematic checks of EU nationals on external borders are not recorded and that this could provide useful information for law enforcement. The Expert Group therefore recommended further analysis of the proportionality and feasibility of a systematic recording of external border crossings of all EU citizens. As said in the 7<sup>th</sup> progress report towards an effective and genuine Security Union, the Commission notes that the Expert Group's report does not demonstrate the necessity and proportionality of recording the external border crossings of all EU citizens. Should further elements come to light demonstrating the necessity and proportionality of such recording, the Commission stands ready to assess the need for further action. Meanwhile, the Commission will look into the Expert Group's related recommendation to work towards the possible registration of 'hits' in the Schengen Information System of people under alert, as a possible way to register the travel movements of those EU citizens who have been identified as potentially involved in terrorism or other forms of serious crime.*

*Moreover, taking note of the views expressed by the Sénat in its Opinion, the Commission recalls that alternative means for recording entries to and exits from the Schengen area of Member States' nationals were discussed in the framework of a High Level Expert Group on information systems and interoperability that the Commission set up in 2016 and in which France was actively participating. The High Level Expert Group discussed the interoperability among various systems in the sense of using a single search portal. Interoperability between the Visa Information System and the Schengen Information System should have been ensured at the national level since the Visa Information System went live in 2011. Interconnectivity between the Visa Information System and the Schengen Information System was not among the subjects for discussion in the High Level Expert Group. The Expert Group delivered its final report on 5 May 2017.*

*The proposal for the European Travel Information and Authorisation System that the Commission presented in November 2016 provides for an electronic travel authorisation system for visitors from third countries that have been granted visa free access to the European Union and Schengen member countries<sup>2</sup>. Europol will play a role in this system, as the data stored in the European Travel Information and Authorisation System Central System will also be compared to Europol data, before the Member State decides on the travel application. Moreover, Europol will be able to consult data stored in the European Travel Information and Authorisation System Central System for the purposes of preventing, detecting and investigating terrorist offences or other serious criminal offences falling under its competence.*

*With regard to the implementation of the Passenger Name Records Directive, the Commission is pleased that the French Passenger Information Unit is almost fully functional and benefiting from European Union financial support.*

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<sup>2</sup> Proposal of 16 November 2016 for a Regulation establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 515/2014, (EU) 2016/399, (EU) 2016/794 and (EU) 2016/1624, COM(2016) 731 final.

*As the Sénat rightly points out, Europol has recently undergone a reform both regarding its legal basis and its organisation. The new Europol Regulation has been in force since 1 May 2017<sup>3</sup>. The creation of the European Counter Terrorism Centre responds to the need for an operational centre monitoring specifically crimes related to terrorism.*

*As recalled in the Opinion, the Europol Regulation sets new standards for joint democratic scrutiny by the European Parliament and national Parliaments. It makes full use of the possibilities introduced by the Lisbon Treaty for enhanced parliamentary control of Europol. The Joint Parliamentary Scrutiny Group, which will be key in this respect, is a result of the interinstitutional negotiations on the Europol regulation<sup>4</sup>. The Commission made its position clear during these negotiations on the modalities for joint scrutiny over Europol's activities by the European Parliament and national Parliaments. The Commission considered that it was within the power of both the European Parliament and the national Parliaments to organise their cooperation, and that they should be encouraged to take this initiative as well as ownership of their own procedures. For this reason, and for respect of the independence of national Parliaments and of the European Parliament, as well as of their freedom to organise themselves as set out in Article 9 of Protocol 1 to the Treaties, it was agreed that the parties themselves should establish the rules and modalities of such joint cooperation. The competent committees of the European Parliament and of national Parliaments are currently in the process of putting the possibilities provided by the Europol Regulation into practice. The Commission would therefore like to thank the Sénat for its suggestions on the functioning of the Joint Parliamentary Scrutiny Group and invites the Sénat to make its views known to the above mentioned fora.*

*The Commission hopes that these clarifications address the issues raised by the Sénat and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Dimitris Avramopoulos  
Member of the Commission*

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<sup>3</sup> Regulation (EU) 2016/794 of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (EUROPOL) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA.

<sup>4</sup> Commission Communication of 17 December 2010 on the procedures for the scrutiny of Europol's activities by the European Parliament, together with national Parliaments, COM(2010) 776.