



EUROPEAN COMMISSION

Brussels, 19.2.2019
C(2019) 1387 final

Dear Presidents,

The Commission would like to thank the Houses of the Oireachtas for their Reasoned Opinion on the amended proposal for a Regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (borders and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399, Regulation (EU) 2017/2226, Regulation (EU) 2018/XX [the ETIAS Regulation], Regulation (EU) 2018/XX [the Regulation on SIS in the field of border checks] and Regulation (EU) 2018/XX [the eu-LISA Regulation] {COM(2018) 478 final} and the amended proposal for a Regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration) and amending [Regulation (EU) 2018/XX [the Eurodac Regulation], Regulation (EU) 2018/XX [the Regulation on SIS in the field of law enforcement], Regulation (EU) 2018/XX [the ECRIS-TCN Regulation] and Regulation (EU) 2018/XX [the eu-LISA Regulation] {COM(2018) 480 final}.

These proposals establish a framework for interoperability between European Union information systems, to better protect the security of citizens and to improve migration and border management. In their Joint Declaration, the Presidents of the European Parliament, the Council and the European Commission placed these proposals among the Union's legislative priorities for 2018-2019.

The Commission takes seriously the concerns expressed by the Houses of the Oireachtas that consider that the proposals do not comply with the principle of proportionality for the reasons set out in the Report by the Joint Committee on Justice and Equality.

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As regards the request for a detailed statement with sufficient quantitative and qualitative indicators on the implications of the proposals, the Commission recalls that it conducted a thorough assessment of the impact of the proposals¹.

As to the necessity of the proposal, the Commission recalls that the proposals respond to the recommendations of a high-level expert group that involved the European Data Protection Supervisor and the European Union Agency for Fundamental Rights. The Commission would like to stress that action at Union level as envisaged in the proposals is required to make European Union information systems interoperable, able to exchange information and to work better together, in order to improve the security of Union citizens.

Based on a thorough assessment of the existing systems and the identified gaps, the proposals on interoperability respond to an overall vision on European Union information systems and on their architecture, in order to fight loopholes between European Union systems. The limited new components build on the functionalities of each system. The consequential amendments presented on 12 June 2018 present limited amendments to the European Travel Information and Authorisation System, the Schengen Information System, the European Agency for the operational management of large-scale Information Technology systems in the area of freedom, security and justice (eu-LISA) and the European Criminal Records Information System that are needed to link with interoperability components.

With regard to the necessity of the interoperability components, the Commission would like to stress that the common identity repository will facilitate quick and accurate identification of third-country nationals. It will offer a system architecture that minimises the risks of errors, mismatches and inconsistencies between the underlying information systems, without collecting any additional data. The Commission would also like to clarify that the biometric templates stored in the shared biometric matching service will be mathematic representations that derive from the actual images but that cannot be used to recreate those biometric images. Without the templates in the shared biometric matching service, five individual components (one each for Eurodac, Visa Information System, Schengen Information System, Entry/Exit System and the European Criminal Records Information System) would be required.

As regards the proportionality of the interoperability components, the new functionalities will build on the existing European Union systems, keeping their purpose limitation rules, access rules and data retention rules. Data protection by design and by default is built into the interoperability components. Specific purposes are clear, limited and relevant to the circumstances. The collection of personal data is limited to what is necessary for the specified purposes, and the use of existing personal data will be kept to a strict minimum, in accordance with existing rules.

¹ see SWD(2017) 473 final, 12.12.2017.

In relation to the provisions proposed in Article 20 on identity checks, the Commission would like to stress that the proposals clearly specify their precise purposes (to permit the identification of a person), as well as their conditions (requiring the adoption of national legislation). As regards the impact on fundamental rights, and notably the rights of third-country nationals with regard to privacy and data protection, the Commission would like to recall that it has carefully assessed – with input from the European Data Protection Supervisor and the Fundamental Rights Agency – the impact on fundamental rights and data protection. The work on interoperability is firmly embedded in the full respect of fundamental rights, in particular of the Union’s data protection legislation. The Commission fully shares the objective of fighting any discrimination on any ground, such as sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. A specific provision in the proposals spells that out, and relevant safeguards are in place.

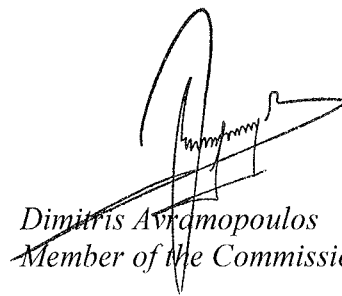
The proposals presented by the Commission are currently in the legislative process involving both the European Parliament and the Council. The Reasoned Opinion of the Houses of the Oireachtas has been forwarded to the relevant Commission services and will feed into the negotiations with the European Parliament and Council. The Commission remains hopeful that an agreement will be reached in the near future, fully supporting the relevant safeguards included in the proposals.

The Commission hopes that these comments address the concerns raised by the Houses of the Oireachtas and looks forward to continuing the political dialogue in the future.

Yours faithfully,



*Frans Timmermans
First Vice-President*



*Dimitris Avramopoulos
Member of the Commission*