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Opinion

Title

DG HOME - Impact Assessment on a proposal establishing the entry/exit system to register entry and exit data of third-country nationals crossing the external borders of the Member States of the European Union

(resubmitted draft version of 14 May 2012)

(A) Context

According to the Schengen Borders Code, third-country nationals must be subject to a control at entry and exit of the Schengen territory. None of the existing databases (such as SIS, VIS or Eurodac) records travellers' cross border movements and stamping of travel document remains the sole method to indicate the dates of entry and exit. The creation of an automated entry/exit system has been discussed since 2005 as a possible policy option in several EU documents and was analysed in the impact assessment accompanying the 2008 Communication "Preparing the next steps in border management in the European Union". The aim of this impact assessment is to examine different implementation options for a system allowing Member States to record entry and exit of third-country nationals in the Schengen area and to share this data effectively while safeguarding data protection. This initiative is linked to the proposal establishing a Registered Traveller Programme, for which a separate impact assessment has been prepared.

(B) Overall assessment

While the report has been improved to some extent along the lines of the Board's first opinion, several important aspects need to be further strengthened. Firstly, the problem definition should be further improved by clarifying up-front that the evidence currently available does not support the need for EU action involving the collection of biometric data for third-country nationals without visa. It should then define more concretely the specific purpose of data collection for each of the identified problems related to border and migration management. Secondly, the report should better justify the need to take immediate action before evaluation results of the Visa Information System become available. Thirdly, the report should improve the intervention logic by establishing a clear hierarchy of feasible general, specific and operational objectives and by clearly linking these with the corresponding alternative system configurations. Finally, the report should further explain the accuracy of the time and cost estimates and duly analyse the cost-effectiveness of the preferred option.

(C) Main recommendations for improvements

(1) Further strengthen the problem definition. In light of the acknowledged uncertainties and in order to improve the consistency of the report, the problem definition should provide greater clarity on the fact that the evidence currently available does not adequately substantiate the problems to be addressed via EU action at this point in time involving the collection of biometric data for third-country nationals without visa. For those problems that can be credibly substantiated (i.e. related to border management and visa/migration policies), the report should define, in clear and concrete terms, the purpose(s) for which data would be collected, retained and accessed and if this purpose(s) can change in the future.

(2) Further develop the baseline scenario and justify the need for immediate action. The report indicates that the problem of irregular migration is likely to diminish with the implementation of the Visa Information System, while the queuing time at borders is most likely to become more acute. These developments should be explained in more depth, better related to the issues at stake and should be used to better justify the need for an immediate decision on the entry/exit system.

(3) Improve the intervention logic. As recommended in the Board's first opinion, the report should improve the intervention logic by defining a consistent and hierarchical set of feasible policy objectives. These should concentrate on the problems that can be realistically addressed at this time (see recommendation 1) and should be clearly linked to the technical development/implementation alternatives that can address the refocused set of problems. The report should provide more details on how the exact content of the safeguard measures related to privacy and data protection will be concretely designed.

(4) Better assess impacts and strengthen the presentation and analysis of costs. The report should better assess the cost-effectiveness of the preferred policy option, i.e. developing the system with biometric functionalities without activating them. The analysis should also assume that biometric functionalities are not included in the development of the system but will be required in the future. Furthermore, while the report now indicates that the cost estimates represent the worst-case scenario and should not be overrun in any circumstances, it does not present any alternative scenarios and/or sensitivity analysis that would demonstrate how the estimates change in accordance with the underlying assumptions. Finally, the report should explain the accuracy of the estimates given the need to provide for safeguard measures.

Some more technical comments have been transmitted directly to the author DG and are expected to be incorporated in the final version of the impact assessment report.

(D) Procedure and presentation

While the main report now better presents the views of the principal affected stakeholders, an annex containing their detailed views should be still included. Synergies with the Registered Traveller Programme should be explained in a separate section. The report should explain in more detail which design elements will be defined via implementing measures. In presenting the preferred option, the report should avoid referring to a "phased approach", which is not consistent with the conclusion that any further steps will require a new legislative proposal from the Commission accompanied by a new impact assessment.

(E) IAB scrutiny process	
Reference number	2010/HOME/004
External expertise used	No
Date of Board Meeting	Written procedure This opinion concerns a resubmitted draft IA report. The first opinion was issued on 16 March 2012.