



Analysis

Smart borders: *fait accompli*?

Chris Jones, August 2014

In February 2013, in order to “simply life for foreigners frequently travelling to the EU and to better monitor third-country nationals crossing the EU’s external borders,” the European Commission proposed three new pieces of legislation known collectively as the ‘smart borders package’. [1] This comprises proposals for an Entry/Exit System intended to detect visa ‘overstayers’; a Registered Traveller Programme for the vetting of selected individuals before they arrive at EU borders; and proposals for relevant legal amendments to the Schengen Borders Code.

Neither the Council nor the Parliament has reached a position on the Commission’s proposals with which to begin negotiations. Given the complexity, cost and civil liberties implications of the systems, deliberations are likely to be protracted. Nevertheless, the Council and the Commission appear confident of success, and are preparing a study and pilot project on the technology for the EES and RTP in order to ensure that they are ready to launch as soon as possible following the passing of legislation. Progress “without undue delay” has been called for by the Member States; the Commission has been funding research projects intended to develop relevant technology and procedures; the ‘homeland security’ industry is lobbying specifically for the adoption of new systems. EU officials have frequently met with industry representatives at high-level conferences and meetings, and have explicitly encouraged ongoing “informal” discussions.

Despite explicit statements in the Commission’s proposals that no new large-scale IT system will be developed “before the underlying legal instruments setting out its purpose, scope, functions and technical details have been definitely adopted,” [2] the picture that emerges from ongoing activities is that the introduction of ‘smart borders’ to the EU is seen as a *fait accompli*.

New ‘migration management’ systems

The Entry/Exit System (EES) would extend biometric ID checks – currently reserved for those requiring visas – to all non-EU nationals seeking to enter the EU, with the intention of helping the authorities identify those who have stayed longer than permitted (‘overstayers’). In the words of a Commission presentation, it would “replace the current practice of calculation of authorised stay based on stamps in passports with an electronic registry of the dates and places of entry & exit for short stays,” in order to allow “accurate and reliable

¹ European Commission, ‘EU ‘Smart Borders’: Commission wants easier access and enhanced security’, 25 October 2011, http://europa.eu/rapid/press-release_IP-11-1234_en.htm

² European Commission, ‘Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES)’, 28 February 2013, p.43-44, <http://www.statewatch.org/news/2013/feb/eu-com-entry-exit-system-95-13.pdf>

calculation of authorised stay”. [3] The information collected for the EES will include alphanumeric data (names, type and number of travel document(s), date and time of entry and exit, and, after a three year “transitional period... to allow for Member States' adapting processes at the border crossing points,” ten fingerprints. [4]

Because the collection of this data would lead to longer waiting times at border crossing points, a counterpart system – the Registered Traveller Programme (RTP) – has also been proposed. [5] This would allow travellers to be pre-vetted by the authorities. Those not deemed a security risk would be allowed to enter the EU through automated border control gates, already a growing feature of many European airports. The Commission argues that as a result, “border checks of Registered Travellers would be much faster than nowadays,” [6] although these claims have been disputed. [7]

The proposals are considered by the Commission “as part of the continuous development of the Integrated Border Management Strategy of the European Union”, and there will apparently be numerous “synergies” between the new systems and existing ones. The EES will share the same Biometric Matching System as the Visa Information System (VIS), and will also complement the VIS as “for visa holders the EES will store also concrete entry and exit data related to the issued visas,” something not currently done. [8] It is not clear how many individual records would be held in either system, but it is likely to be in the millions. The VIS, for example, can hold up to 70 million records on applicants for EU visas. The ultimate aim is to use vast databases to give state authorities information on the whereabouts of all non-EU nationals within the Schengen area.

Smartening up

Proposals for a smart borders system first formally came to light in a 2008 Commission paper, but received renewed momentum with the increased number of people travelling to Europe in the aftermath of revolutions, civil wars, and western ‘intervention’ in north Africa in 2011. In June 2011 the European Council (made up of the heads of state and government of EU Member States) called for work on smart borders to be “[pushed] forward rapidly”, [9] leading to an October 2011 Communication from the Commission on the topic, and legislative proposals in February 2013. [10]

Critiques of the civil liberties implications, proposed costs (currently €1.1 billion), and the Commission's use of misleading figures in justifying the efficiency of the system have come

³ Ana Herrera de la Casa, ‘Smart Borders EES & RTP’, 26 June 2014,

<http://www.statewatch.org/docbin/eu-com-2014-06-icao-smart-borders-presentation.pdf>

⁴ European Commission, ‘Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES)’, 28 February 2013, p.5,

<http://www.statewatch.org/news/2013/feb/eu-com-entry-exit-system-95-13.pdf>

⁵ European Commission, ‘Proposal for a Regulation of the European Parliament and of the Council establishing a Registered Traveller Programme’, 28 February 2013,

<http://www.statewatch.org/news/2013/feb/eu-com-registered-traveller-programme-97-13.pdf>

⁶ European Commission, “Smart borders’: enhancing mobility and security’, 28 February 2013,

http://europa.eu/rapid/press-release_IP-13-162_en.htm

⁷ See ‘Smart borders: Commission impact assessments misleading, suggests European Parliament study’, *Statewatch News Online*, November 2013,

<http://database.statewatch.org/article.asp?aid=32909>; and Julien Jeandesboz et al., ‘The Commission’s legislative proposals on Smart Borders: their feasibility and costs’, October 2013,

<http://www.statewatch.org/news/2013/oct/ep-smart-borders-study.pdf>

⁸ European Commission, ‘Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES)’, 28 February 2013, p.43-44,

<http://www.statewatch.org/news/2013/feb/eu-com-entry-exit-system-95-13.pdf>

⁹ European Council, ‘Conclusions’, 24 June 2011, http://ec.europa.eu/commission_2010-2014/president/news/speeches-statements/pdf/20110624_1_en.pdf

¹⁰ European Commission, “Smart borders’: enhancing mobility and security’, 28 February 2013, http://europa.eu/rapid/press-release_IP-13-162_en.htm

from academics, data protection experts, civil society groups and European political parties (notably the Greens/European Free Alliance). Given the lack of a European policy on 'overstayers', the ability of an EES to effectively address the issue has been questioned, as has the system's compatibility with the Charter of Fundamental Rights in light of the Court of Justice's ruling on the Data Retention Directive. The EES has come in for particular criticism, with the European Data Protection Supervisor arguing that it "should not be created before a thorough evaluation of existing systems can effectively be performed," [11] and calling the proposed system is "costly, unproven and intrusive". [12] These concerns appear to have made little dent in the high-level enthusiasm for the proposals.

The push for smart borders was reinforced at the highest political level in June this year, with the publication of the European Council's "strategic guidelines" for JHA policy. The guidelines are intended to outline "legislative and operational planning" for justice and home affairs policy in the coming years. They state that: "The Union must mobilise all the tools at its disposal to support the Member States" in controlling the EU's external borders. Thus:

"Integrated Border Management of the external borders should be modernised in a cost-efficient way to ensure smart border management with an entry-exit system and registered travellers programme and supported by the new Agency for Large Scale IT Systems (eu-LISA)". [13]

Pushing ahead: study and pilot project

The idea for a study and pilot project on the EES and RTP came from the Commission in November 2013. It was subsequently discussed by Member States' delegations in the Council's Working Party on Frontiers, the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) and the JHA Counsellors. [14]

Consultancy firm PriceWaterhouseCoopers is carrying out the study, which is due to be completed by September this year. It will cover 20 'thematic files', under the headings of biometrics, impact on border control processes, data, architecture and "other". [15] A presentation by a Commission official to an International Civil Aviation Organisation conference in June this year reported that files on border control processes and biometrics were "almost finished", files on data were "well advanced" (except for the file on potential law enforcement access to the EES) and "the analysis of border control processes and biometrics has already led to a provisional draft list of possible Pilot options". [16]

¹¹ European Data Protection Supervisor, 'Opinion on the Proposals for a Regulation establishing an Entry/Exit System (EES) and a Regulation establishing a Registered Traveller Programme (RTP)', 18 July 2013, <http://www.statewatch.org/news/2013/jul/eu-edps-smart-borders-opinion.pdf>

¹² European Data Protection Supervisor, 'Smart borders: key proposal is costly, unproven and intrusive', 19 July 2013, <http://statewatch.org/news/2013/jul/eu-edps-smart-borders-prel.pdf>

¹³ European Council, 'Conclusions', 27 June 2014, <http://www.statewatch.org/news/2014/jun/eu-council-conclusions-jha.pdf>

¹⁴ Presidency, 'Approach for the way forward on the Smart Borders Package', 4 February 2014, <http://statewatch.org/news/2014/feb/eu-council-smart-borders-5828-14.pdf>

¹⁵ The 20 thematic files come under four headings. Biometrics: biometric identifiers for EES; biometric identifiers for RTP; impact of transition period. Impact on border control processes: visa holders, visa exempt travellers, residence permits; border processing time; EES process: 1st border crossing/subsequent crossing; RTP enrolment process; process at exit; process accelerators; alternative options to the token. Data: privacy by design, retention period, law enforcement access; output of EES and RTP systems. Architecture: EES and RTP: 1 or 2 systems; EES, RTP and VIS (compatibility of processes/synergies); interaction with other IT systems/interoperability; existing national systems: re-utilisation/integration. Other: cost analysis of the various options and the pilot; statistics on border crossing. See: Ana Herrera de la Casa, 'Smart Borders EES & RTP', 26 June 2014, <http://www.statewatch.org/docbin/eu-com-2014-06-icao-smart-borders-presentation.pdf>

¹⁶ Ana Herrera de la Casa, 'Smart Borders EES & RTP', 26 June 2014, <http://www.statewatch.org/docbin/eu-com-2014-06-icao-smart-borders-presentation.pdf>

Following the completion of the study and its presentation to the Working Party on Frontiers and the European Parliament, the “key features of a pilot project” will be identified by December 2014. It is unclear how much say the Parliament will have in identifying these features. The pilot project will begin in January 2015 and take place over the course of the year, but according to a document outlining “the way ahead”, only the Working Party on Frontiers “should regularly be informed by the Commission on developments”. [17] Member States have stressed the need for “full transparency” but only with regard to the Council’s involvement in the process, while “the Presidency and the Commission should as appropriate be in contact with the European Parliament on developments in the pilot project.” [18]

Member States have the “aim of finalising negotiations in first reading by mid-2016.” A document summarising a SCIFA meeting in November 2013 considers this a “reasonable” timeframe. It seems that swift approval of the legislation a priority for Member States (as is ensuring law enforcement access to the data held in the EES [19]). The same SCIFA document notes that “several delegations” felt it important that:

“[T]he pilot project should not imply a pause in the negotiations in the Working Party... examination of that elements [sic] of the proposal not linked directly with those covered by the pilot project should continue so as not to lose time. Concerns were also expressed that the overall timeframe for negotiating the package should not be prolonged.” [20]

The need for urgency is so great amongst that one national delegation “pleaded” at the SCIFA meeting “for arriving at a clear ‘go’ or ‘no-go’ decision in Council once the different possible choices have become clear.” In February this year, progress “without undue delay” was demanded. [21]

Statewatch asked the European Commission whether consideration had been given to pausing legislative negotiations until the study and pilot project are completed. The response from the Directorate-General for Home Affairs was that there has been an:

“[E]xpress wish of the delegations that the proof of concept (study and pilot project) should not postpone negotiations on issues which are not directly linked to it.

“The first reading of both proposals was finalised in February 2014. The discussions in subsequent meetings of the Working Party on Frontiers/Mixed Committee have focussed on issues which are not directly linked to the study and the pilot project, such as the legal issues linked to law enforcement access to the EES which was discussed in the last meeting of 18 June 2014. Such issues are equally important in the negotiations and should be advanced as much as possible in parallel with the proof of concept with the aim of reaching agreement in first reading by mid-2016 (point II.g. of document 5828/14). Should this not be the case, this already ambitious timeline will not be possible to keep.”

¹⁷ Presidency, ‘Approach for the way forward on the Smart Borders Package’, 4 February 2014, <http://statewatch.org/news/2014/feb/eu-council-smart-borders-5828-14.pdf>

¹⁸ SCIFA, ‘Smart Borders Package – approach to follow for further proceedings’, 11 December 2013, <http://www.statewatch.org/docbin/eu-council-13-17127-smart-borders-approach.pdf>

¹⁹ ‘Smart borders: Member States seek to make law enforcement access compatible with data retention ruling’, *Statewatch News Online*, August 2014, <http://www.statewatch.org/news/2014/aug/lea-ees-drd1.htm> ; ‘Member States reassert support for law enforcement access to proposed new Entry/Exit System’, *Statewatch News Online*, October 2013, <http://database.statewatch.org/article.asp?aid=32784>

²⁰ SCIFA, ‘Smart Borders Package – approach to follow for further proceedings’, 11 December 2013, <http://www.statewatch.org/docbin/eu-council-13-17127-smart-borders-approach.pdf>

²¹ Presidency, ‘Approach for the way forward on the Smart Borders Package’, 4 February 2014, <http://statewatch.org/news/2014/feb/eu-council-smart-borders-5828-14.pdf>

Clearly, the need to meet a politically-determined “ambitious timeline” is the priority. The Council and Commission are currently working with the following timetable:

- November 2013-February 2014: Completion of the preliminary examination of the package;
- February-March 2014: Agreement on the scope of the Study;
- March 2014-September 2014: Realisation of the study;
- January 2015-end 2015: Implementation of the pilot project;
- By mid-2016: Further proceedings with a view to finalising negotiations by mid-2016;
- Mid-2016: Tendering by eu-LISA (the EU Agency for Large-Scale IT Systems);
- Mid-2017-January 2019: Development;
- January 2019-end 2019: Development and testing;
- January 2010-mid 2020: Deployment;
- Mid-2020: “Go-Live!” [22]

The technical architecture for other large-scale EU databases (the Schengen Information System II, SIS II) and IT systems (the European Border Surveillance System, EUROSUR) were largely conceived and developed behind closed doors. By the time the European Parliament was given any say over the systems, they were effectively presented with a *fait accompli*. The development of the EES and RTP is not proceeding in the same way as these two systems – as noted above, the Commission has made clear that no development should take place until legislation is agreed, and high level discussions have insisted that the convoluted process that eventually led to the second-generation Schengen Information System should not be repeated. [23] Nevertheless, a clear concern is that by the time the pilot project is completed, money already spent – not to mention political demands – will make the introduction of the systems harder to reject.

Jumping the gun

The Commission’s insistence that technological development will follow only come after the establishment of a legal basis is, to some degree, sleight of hand. Along with the pilot project, EU research funding has for several years been going towards a number of projects relevant to the smart borders proposals. Those funded under the EU’s Seventh Framework Programme (FP7, which ran from 2007-2013) are shown in the Annex. The total contribution from EU funds so far is €51.7 million, with another €21 million lined up for projects due to be agreed in August this year under the Horizon 2020 funding programme.

Some projects are specifically geared towards benefitting the smart borders initiative. The FastPass project received €11,287,715 from the Commission (72% of its total cost) to “establish and demonstrate a harmonized, modular approach for Automated Border Control (ABC) gates.” [24] The project’s website notes that for the EES and RTP “to fully exploit their power, they need to be combined with automated border control (ABC) systems”. Thus:

“FastPass will examine the opportunities that the Smart Borders initiative offers and try to integrate the elements that could enhance the ABC. FastPass will support the Smart Borders Initiative and proposed a further technological integration and harmonization of EES and RTP in ABC.” [25]

²² Presidency, ‘Approach for the way forward on the Smart Borders Package’, 4 February 2014, <http://statewatch.org/news/2014/feb/eu-council-smart-borders-5828-14.pdf>; Ana Herrera de la Casa, ‘Smart Borders EES & RTP’, 26 June 2014, <http://www.statewatch.org/docbin/eu-com-2014-06-icao-smart-borders-presentation.pdf>

²³ EOS, ‘2nd High Level Security Roundtable’, 21 March 2012, p.15, http://www.eos-eu.com/files/Documents/2012_High_Level_Security_Roundtable_Report_final.pdf

²⁴ CORDIS, ‘FASTPASS’, http://cordis.europa.eu/project/rcn/106743_en.html

²⁵ FastPass, ‘EES and RTP integration’, https://www.fastpass-project.eu/ees_and_rtp_integration

The ABC4EU project was awarded €12,015,246 (71% of its total cost) in order to:

"[I]dentify the requirements for an integrated, interoperable and citizen's rights respectful ABC system at EU level, taking account of the experience gained from the previous pilots, projects and the future needs derived from the Smart Border and other EU and national initiatives... In addition, RTP and EES will be specifically tested in the project to assess their feasibility..." [26]

Such efforts are set to continue under Horizon 2020, the successor to the FP7 funding programme. One call under Horizon 2020's "secure societies" programme deals with 'Border Security and External Security'. €21 million has been made available during 2014 and 2015 for projects designed to boost the "development of technologies, capabilities and solutions" that "improve EU border security", because "the facilitation of flow of people/goods with legitimate interest/value to enter/exit the EU territory cannot come at the expense of security." [27]

The 2014-2015 work programme states that:

"[T]his call targets the development of technologies and capabilities which are required to enhance systems, equipment, tools, processes and methods for rapid identification to improve border security. This includes both control and surveillance issues, exploiting the full potential of EUROSUR and promoting an enhanced use of new technology for border checks, also in relation to the SMART BORDERS legislative initiative." [28]

However, the €21 million foreseen for Horizon 2020 research projects is pocket change compared to the €1.1 billion in funding that is set to come from the Internal Security Fund, which runs from 2014 to 2020. This will cover "one-time development costs at central level and in all Member States," and "costs for four years of business-critical maintenance of both central and national components." [29] It is arguably this enormous amount of funding that has so excited Europe's homeland security industry.

Industrial influence

In 2011 and 2012 industry lobby group the European Organisation for Security organised 'High Level Security Roundtables', under the "high patronage" of Home Affairs Commissioner Cecilia Malmström. [30] Her patronage was complemented in 2012 by that of Commission Vice-President Antonio Tajani. Transcripts of the 2011 meeting indicate that the

²⁶ ABC4EU, 'Goal', <http://abc4eu.com/about/>

²⁷ European Commission, 'Introduction into funding for BES topics within Horizon 2020', 1 April 2014, <http://www.statewatch.org/docbin/eu-com-2014-04-01-h2020-bes-topics-funding-guide.pdf>

²⁸ European Commission, 'Horizon 2020 Work Programme 2014-2015, Secure societies – Protecting freedom and security of Europe and its citizens - Revised', 22 July 2014, p.73, <http://statewatch.org/docbin/eu-com-2013-secure-societies-wp-2014-2015-revised.pdf>

²⁹ European Commission, 'Smart Borders': for an open and secure Europe', 28 February 2013, http://europa.eu/rapid/press-release_MEMO-13-141_en.htm

³⁰ It is interesting to note that Accenture has played no part in these discussions. However, the firm's entry in the EU's 'Transparency Register' of lobbyists records that the company has spent between €1 million and €1.25 million on "representing interests to EU institutions" for the year from September 2012 to August 2013. How this squares with the fact that only two members of staff are reportedly engaged in these activities is unclear. See: 'Accenture International SARL', *Transparency Register*, information last modified 7 March 2014, <http://ec.europa.eu/transparencyregister/public/consultation/displaylobbyist.do?id=34424201320-69>, page accessed 31 July 2014

smart borders package was mentioned, if not in great detail. [31] In 2012, however, Malmström, Alberto Calvo (director of defence and security for Spanish company Indra), and Marian-Jean Marinescu (a Romanian MEP in the European People's Party) held a debate on 'Putting Maritime Border Surveillance and Smart Borders in action'. Subsequently: "The Roundtable participants reaffirmed their commitment to the EU's Smart Border Package and the deployment of the EUROSUR programme." [32] At both events, representatives of the private sector significantly outnumbered those of public authorities.

EOS is so interested in the smart borders package it has formed a working group on the issue. Chaired by Olivier Touret of French IT firm Morpho and Yves Lagoude of French arms giant Thales, the working group aims to achieve:

"More effective public-private dialogue in order to provide technical assistance and identify ways and means to support the Commission and the involved European Agencies (FRONTEX and the Large IT systems Agency) in overtake criticism [sic] and finding technical answers for the future implementation of the two centralized systems.

"Identification of the best instruments for achieving a good result, for example using the Internal Security Fund to support pilots allowing to get answers from the many technical open questions on the most efficient and cost effective way to deploy the new Systems."

The working group notes specifically that: "Consultation on the R&D and in particular on the supporting researches to be carried out in the next Horizon 2020 frame, should be a relevant part of the public-private collaboration". [33] EOS members Selex, Thales, Fraunhofer and Indra have already obtained FP7 research funding for smart border-related projects, a theme likely to continue under Horizon 2020.

EOS' efforts to improve "public-private dialogue" may be well-received. Cecilia Malmström told the 2012 High Level Security Roundtable that the EU is "in a listening mood" and that the "discussion between public and private stakeholders will be continued, even though in a more informal way, with regular contacts at operational level to exchange information." [34]

The conference circuit

EU officials and industry representatives will also have encountered one another at high-level conferences. In October 2012 the tenth annual Customs, Immigration and Border Management (CIBM) "executive forum" was hosted by IBM in Berlin. Frank Paul of the European Commission Directorate-General Home Affairs was present, alongside borders and policing officials from the UK, Germany, Austria, Australia and Canada, and industry representatives from IBM, Consult Hyperion and Deutsche Telekom. Despite the conference taking place in 2012, five months before the Commission's smart borders proposals were published, the Registered Traveller Programme was noted under the "emerging trends" heading:

"For this program to succeed, equipment, systems, processes and procedures must be standardised and interoperable, and deployed at land borders. Mobile solutions will also provide a critical component of the programs' success." [35]

³¹ EOS, 'High Level Security Roundtable', 9 February 2011, <http://www.eos-eu.com/files/Documents/High%20Level%20Security%20Roundtable%2009%2002%202011%20minutes%20final.pdf>

³² EOS, 'High Level Security Roundtable 2', 21 March 2012, http://www.eos-eu.com/files/Documents/2012_High_Level_Security_Roundtable_Report_final.pdf

³³ EOS, 'Working Groups', <http://www.eos-eu.com/?page=smart%20borders%20wg>

³⁴ EOS, 'High Level Security Roundtable 2', 21 March 2012, http://www.eos-eu.com/files/Documents/2012_High_Level_Security_Roundtable_Report_final.pdf

³⁵ Ibid.

Oddly, at the 2013 CIBM conference, a presentation on ‘Journey of the EU, from EU Borders perspective’ was given by a representative of IBM. [36]

In September 2013 the ‘4th Annual Collaborative Border Management Conference: Delivering Smart Borders’ was hosted by the British Chamber of Commerce in Belgium at the Brussels Renaissance Hotel. Krum Garkov, executive director of the EU Agency for Large-Scale IT Systems (eu-LISA) spoke alongside representatives of state agencies from the EU and US, and industry giants Accenture and HP. According to documents from the conference, “on the basis of past projects and initiatives” Garkov “identified five main areas for improvement” for the smart borders package:

- “Align legal frameworks with technological developments;
- “Consider interoperability as an opportunity rather than a threat;
- “Preserve added value of existing technology;
- “Better cooperation among experts and decision-makers; and
- “Build-in privacy/Privacy by design – how technology could address data security in the initial stages of technology design and creation.” [37]

Garkov also put in an appearance alongside state and industry officials [38] at the Smart Borders 2014 conference, held in London in June, where he spoke on a number of issues including “how to justify the €1.1 billion cost to your national teams” and “responding to critics of the project to gain global support”. [39] Through the October 2011 establishment of eu-LISA, [40] the Council and Parliament have created an institution not just for managing existing large-scale IT systems and databases, but one that is actively involved in promoting new ones. The agency is hosting its own conference, ‘Smart Borders: Faster and Safer Way to Europe’ in October this year. [41]

Frontex is another EU agency which is firmly in favour of the smart borders package, arguing that: “The EES and the RTP... are valuable tools for providing risk-based facilitation to a wider group of travellers.” [42] The border control agency has hosted two conferences on Automated Border Control (ABC) systems; commissioned and undertaken numerous reports on the issue; [43] and hosts a “pool of experts on Automated Border Control”. [44] In June this year it hosted the ninth ABC workshop, organised with the UK authorities. [45]

³⁶ Peter Graham, ‘Journey of the EU, from EU Borders perspective’, October 2013, [https://www-950.ibm.com/events/www/grp/grp021.nsf/vLookupPDFs/Peter%20Graham/\\$file/Peter%20Graham.pdf](https://www-950.ibm.com/events/www/grp/grp021.nsf/vLookupPDFs/Peter%20Graham/$file/Peter%20Graham.pdf)

³⁷ ‘The 4th Annual Collaborative Border Management Conference: Delivering Smart Borders – Conference Report’, 24 September 2013, https://www.eu-ems.com/event_images/Downloads/0858%20BM2013%20Report%20Final%20pages_1.pdf

³⁸ Smart Borders, ‘Smart Borders 2014 Industry Leaders’, <http://smartborders.wbresearch.com/speakers>

³⁹ Smart Borders 2014, ‘Agenda’, <http://smartborders.wbresearch.com/media/8543/23156.pdf>

⁴⁰ Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32011R1077&from=EN>

⁴¹ eu-LISA, ‘Smart Borders: Faster and Safer Way to Europe’, <http://www.eulisaconference2014.eu/>

⁴² Frontex, ‘Border control in the information age’, undated, <http://frontex.europa.eu/feature-stories/border-control-in-the-information-age-udh57L>

⁴³ See the ‘research and development’ section in the Statewatch Observatory on Frontex: http://www.statewatch.org/observatories_files/frontex_observatory/official_pub.html#rd

⁴⁴ Frontex, ‘Call for expression of interest: pool of experts on Automated Border Control’, undated, <http://frontex.europa.eu/news/call-for-expressions-of-interest-pool-of-experts-on-automated-border-control-fyKXmZ>

⁴⁵ Frontex, ‘Invitation to technology suppliers to participate in the 9th workshop on Automated Border Control (ABC) and demonstration at Gatwick airport in the UK on 5-6 June 2014’, undated, <http://btn.frontex.europa.eu/resources/pages/invitation-technology-suppliers-participate-9th-workshop-automated-border-control-ab>

Not so smart?

A range of powerful interest groups from both the public and private sectors is pushing for the swift implementation of the ‘smart borders package’. The extensive knowledge of and potential control over individuals that “smart borders” appear to promise is no doubt tempting to governments and the state agencies responsible for border control. Indeed, this enthusiasm is demonstrated by member state backing for the Commission’s study and pilot project, the ongoing push for swift agreement on legislation, and the financing of research projects under FP7 and Horizon 2020.

The role of industry in proposing, developing and implementing “smart borders” is extensive, but is incompatible with a supposedly democratic decision-making process. Nevertheless, Home Affairs Commissioner Cecilia Malmström has explicitly endorsed the “informal” dialogue sought by EOS’ working group on smart borders. Unfortunately, the European Parliament does not seem likely to be privy to any such discussions, and may even be kept in the dark with regard to ongoing developments in the pilot project. Demands from Member States for “full transparency” have only been made with reference to keeping the Council informed.

Critique of the smart borders proposals has been – and still is – extensive, but none of the arguments raised have so far been dealt with seriously by those in favour of the systems. It seems that the ‘freedom’ in the EU’s ‘area of freedom, security and justice’ is little more than a buzzword when it comes to border control and policing. When it comes to dealing with increasing levels of human migration, the only proposals on the table involve increasing monitoring and control.

Where does all this lead? Tony Smith, former head of the UK Border Agency and now a consultant on border control issues noted down his thoughts prior to the June 2014 Smart Borders Conference in London:

“[T]here needs to be a sophisticated process of intelligence gathering, analysis and strategic and tactical deployment mechanisms to ensure that scarce resources are deployed to the right areas at the right time.”

New databases, surveillance systems, and “synergies” are required because:

“The Border Force Officers of tomorrow will need to be immigration officers, customs officers, police officers and security agents all rolled into one.” [46]

⁴⁶ Tony Smith, ‘Border Management Today’, undated, <http://smartborders.wbresearch.com/media/8543/19365.pdf>

Annex: FP7-funded projects relevant to the EU smart borders proposals

Project name	Description	EU contribution / total cost	Notable participants
ABC4EU: Automatic Border Control Gates for Europe (January 2014 – June 2017) [47]	“ABC4EU will identify the requirements for an integrated, interoperable and citizen’s rights respectful ABC system at EU level, taking account of the experience gained from the previous pilots, projects and the future needs derived from the Smart Border and other EU and national initiatives and paying very special attention to citizen rights, privacy and other related ethical aspects.”	€12,015,246 / €16,817,103	ISDEFE, Spanish Interior Ministry
EFFISEC: Efficient integrated security checkpoints (January 2009 – January 2014) [48]	“The global objective of EFFISEC, a mission oriented project, is to deliver to border authorities more efficient technological equipment.”	€10,034,837 / €16,095,198	Selex, Thales, Romanian Department for Intelligence and Internal Protection, European Commission Joint Research Centre
FASTPASS: A harmonized, modular reference system for all European automated border crossing points (January 2013 – December 2016) [49]	“FastPass will establish and demonstrate a harmonized, modular approach for Automated Border Control (ABC) gates. FastPass brings together key players of the entire ABC value chain - system and component producers, research institutions, governmental authorities and end-users.”	€11,287,715 / €15,612,002	Austrian Interior Ministry, Fraunhofer Institute, Finnish Interior Ministry, International Centre for Migration Policy Development, European Commission Joint Research Centre
FIDELITY: Fast and Trustworthy Identity Delivery and Check with ePassports leveraging Traveller Privacy [50]	“FIDELITY is a multi-disciplinary initiative which will analyse shortcomings and vulnerabilities in the whole ePassports life cycle and develop technical solutions and recommendations to overcome them.”	€12,013,194 / €18,194,375	Morpho, Selex, German Federal Criminal Police, French Interior Ministry, Thales, Italian Interior Ministry
INGRESS: Innovative Technology for Fingerprint Live Scanners (January 2013 – October 2016) [51]	“The objective of INGRESS is to research, develop and validate innovative technology to take fingerprint images by looking at additional biometrics associated with the finger. The project will pave the way to the manufacturing of innovative fingerprint scanners capable of properly sensing fingerprints of intrinsic very-low quality and/or characterized by superficial skin disorders.”	€3,233,782 / €4,252,658	Morpho, French Interior Ministry
MOBILEPASS: A secure, modular and distributed mobile border control solution for European land border crossing points [52]	“MobilePass will focus on research and development towards technologically advanced mobile equipment at land border crossing points. This will allow border control authorities to check European, visa-holding and frequent third country travellers in a comfortable, fast and secure way.”	€3,141,322 / €4,150,391	Fraunhofer Institute, Indra, Spanish Interior Ministry, Romanian Inspectorate General of the Border Police

⁴⁷ http://cordis.europa.eu/project/rcn/111518_en.html

⁴⁸ http://cordis.europa.eu/project/rcn/90955_en.html

⁴⁹ http://cordis.europa.eu/project/rcn/106743_en.html

⁵⁰ http://cordis.europa.eu/project/rcn/102324_en.html

⁵¹ http://cordis.europa.eu/project/rcn/110929_en.html

⁵² http://cordis.europa.eu/project/rcn/185506_en.html

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