



Brussels, 1 April 2015
(OR. en)

7592/15

LIMITE

**JAI 199
FRONT 68
COMIX 146**

NOTE

From:	Presidency
To:	Delegations
Subject:	The consequences of the abolition of the stamping

Following the approval by COREPER of the political guidelines on 10 December 2014 (doc. 16542/14), the Working Party on Frontiers should continue examining, in close contact with the European Parliament, the findings of the study that are not subject to the pilot project. It should also continue discussions on other policy aspects of the proposed Smart Borders Package (SBP), such as the consequences of the abolition of the stamping of travel documents.

Following discussions in the Working Party on Frontiers on the proposal for a Regulation establishing an Entry/Exit System (doc. 8418/14), the Presidency considered that the consequences of the abolition of the stamping of travel documents need to be explored in more detail along with possible solutions. Therefore, in order to obtain general information and to streamline possible discussions under the topic, 3 questions were put to the delegations. As the result, the Presidency has received very valuable input from AT, BE, BG, CH, CY, CZ, DE, DK, EE, ES, FI, FR, HU, IS, LT, LU, MT, NO, NL, PL, RO, SE, SI, SK (compilation in Annex) and sees scope for fruitful discussions within the Working Party on Frontiers.

1. *What could be the impact on the Member States' procedures of the abolition of the stamping of travel documents, and, in particular, for different categories of travellers?*

With regard to the positive effect of the abolition of the stamping of travel documents, the following was mentioned: **possible acceleration of border checks** at external borders and **automatic calculation of duration of stay** (as functionality which will be provided by the EES), **abolition of purchasing, maintenance and storage of stamps** (however the use of stamps in cases where systems are unavailable is an issue which is to be evaluated) and **the removal of the incentive to falsify of stamps**.

On the other hand, concerns were raised on the impact of the abolition of the stamping of travel documents, especially with regard to the daily duties of immigration/police and municipal/social services within the territory of a state, consulates and ILOs. A clear link was identified regarding the **need to define access rights policy to the systems for various stakeholders**.

Easily accessible data on entries and exits is considered important in daily duties for the responsible authorities. A key element for various stakeholders is their **need for advanced technical solutions to consult the EES**. The aim is to fully replace stamping functionalities. Moreover, the following should be examined - **is this option to be developed within the national part of the EES or will this be handled within the centrally developed part of the system?**

Possible **total loss of records** could also constitute an additional burden for stakeholders (calculation of duration of stay with no valid records, previous travel history during new visa applications) and travellers. A **common solution to tackle such a situation should be provided and agreed**.

There should be a specific focus on **carriers' obligations** and **the travellers** themselves. The solution provided by the EES functionality needs to be user-friendly and easily accessible (internet and mobile services e.g. SMS services, printouts). The **requirement of data protection should be met, respected and monitored**. Therefore the abolition of the stamping of travel documents **should enter into the force only if all supporting services are fully operational**.

With regard to the impact of the abolition of the stamping of travel documents, an issue on implementation of SBC provisions, **namely Articles 1 and 8**, was raised and further explanation is needed.

Several delegations highlighted the fact that the stamping of travel document is only used to **retrace the routes of third country nationals (specific national document holders) and to gain evidence on long-term and permanent stays, and proof of extended absence from a national territory.**

The absence of stamps would make it more difficult to identify those travellers overstaying in Schengen. The impact of the abolition of the stamping of these persons' travel documents should be assessed further. A common solution needs to be found in order to avoid different approaches to stamping at national level.

Certain **unclear conditions were quoted by delegations with regard to the procedure for refusal of entry at the border where stamping on travel documents will continue to be used.**

Moreover an unclear issue is whether the common stamp sample will remain or be abolished.

The abolition of the stamping of travel documents also affects the **question of the need to obtain the travel history as a means of evidence from the EES** to be used by both state agencies (in particular courts) and the traveller (in order to prove a period of absence). A solution for obtaining such information needs to be proposed.

2. *Is the stamping of travel documents also used for other purposes and in other documents related to border crossing (e.g. information on the non-respect of authorised period of stay etc.)?*

The Presidency analysed replies provided by the delegations and came to the conclusion that **various travel, supportive and other documents are stamped in accordance with EU and national law.** The Presidency considered that **stamping of documents prescribed at least under national law would remain.** Various stamp samples could be used (a unified sample might no longer be used). The use of different types of stamping could raise an uncertainty in border checks or immigration controls when such stamps will be identified by the responsible authority of another Member State or Schengen Associate Country.

3. *Are there any practical solutions that you may suggest within or outside the scope of the EES proposal?*

The Presidency received practical and valuable proposals that should be discussed in more detail. The results would be addressed to the Commission for consideration. This applies in particular as regards:

- The need to define the access rights policy on the EES functionality for various stakeholders;
- The need to facilitate travel by means of a user-friendly and easily accessible system to be used for the calculation of the duration of a stay;
- Examination of the question whether the EES could include the holders of all resident permits. There is a need to examine the possibility for an automated system (module) for separating third country nationals who are family members (who enjoy the right to free movement and thus are exempt from stamping/registration in the EES) from other third country nationals (who undergo a thorough check and entered into the EES);
- The particular need for a harmonised procedure in case of failure of the national or central EES. Drawing up harmonised and thorough emergency procedures ensuring access in case of a system failure;
- The need for practical and advanced technical solutions to be used by various stakeholders for the purpose of consulting EES;
- Drawing up common procedures for inserting data into EES (where omitted, the information in question would be swiftly exchanged through contact points, in order to remove the presumption of illegal entry or stay);
- Further assessment of the impact of the abolition of stamping of travel documents of third country nationals who have long-term visas, long-term stay permission or permanent resident permits;

- The need for a transitional period after the EES becomes operational and before the stamping of travel documents is completely abolished.

In order to provide scope for further discussion and in the interests of achieving practical outcomes, the Presidency invites the Delegation to examine the information provided.
