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OUTCOME OF PROCEEDINGS

From: Working Party on Frontiers/Mixed Committee
(EU-Iceland/Liechtenstein/Norway/Switzerland)

On: 8 May 2015

Subject: Summary of discussions

1. Smart Borders Package - Testing Phase:
 - Progress report on the implementation
 - Information by eu-LISA
 - eu-LISA cooperation with FRA
 - Information by eu-LISA and FRA

Progress report on the implementation of the SBP

The Presidency and the Commission updated the Working Party (WP) on the recent developments with regard to the Smart Borders Package (SBP), including the outcomes of a series of meetings with numerous stakeholders (public and private, EU and external). Particular emphasis was given to the hearing organised by the European Parliament, with the participation of most national Parliaments of the Member States (MS) on the SBP. Delegations were informed of the results of that meeting, which were conducive in the efforts to build of a consensus among the participants on the added value of the SBP and would be helpful in the future negotiations on the new proposals on SBP.

The Commission also announced its intention to submit a roadmap with a view to providing information/explanations on the setting up of its impact assessment on the future proposals and outlining the policy options to consider integrating in the future proposals.

Furthermore, in relation to the conducting of the pilot project on the SBP **eu-LISA** informed the WP about the progress made on the execution of the tests that have taken place since the end of the design phase in February 2015, outlined the first observations gathered during these tests underscored that the project is within the agreed timeline. The Agency also pointed out that the work for drawing up the interim report on the pilot project is under way. **FI, NL** and **PT** debriefed delegations about the tests that are running on their territory. **DE** suggested considering the setting up of an informal gathering of technical experts of the MS in order to exchange views on various issues that are emerging in the context of the SBP. **The Presidency** indicated that it will further examine this suggestion.

eu-LISA cooperation with FRA

Moreover, **eu-LISA** and **FRA** provided information about a survey at seven border crossing points, which is being conducted outside the pilot project, with a view to obtaining the opinion of the travellers about the tested elements of the future system.

2. Biometric data in large IT databases in the area of borders, visa and asylum - fundamental rights considerations
 - Information by FRA

FRA informed delegations of the objectives and the scope of this multi-annual project, which covers the IT bases of EURODAC, VIS and SIS II. **FRA** pointed out that during 2015 a large field research is taking place, with the close cooperation of the Member States, focusing on how border, immigration and visa authorities use the biometric data and related personal information and recalled that the publication of the end report is scheduled for 2017.

3. Smart Borders Package:
 - The organisational aspects of the RTP application processing
 - Presentation by the Commission and discussion
 - The consequences of the abolition of the stamping
 - Information by the Presidency and discussion
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 - Fall back procedures in case of unavailability of the systems
 - Information by the Commission

The organisational aspects of the RTP application processing

The Commission presented its findings and suggestions for streamlining a possible future RTP application process with enhanced added value. It focused its presentation on the Target Operating Model (TOM) N, which is based on the assumption that RTP and EES will be built as a single system and explained its possible advantages and limitations, including the relevant architectural options. In the same context, **NL** outlined its thoughts for the principles that should govern a future user-friendly RTP system and indicated support on the proposed TOM N frame.

Delegations had an exchange of views on these items and **the Commission** pointed out that the discussion is still open on the cost-effectiveness balance of a possible future RTP system. **The Presidency** invited delegations to submit their views on these issues until 15 May 2015.

The consequences of the abolition of the stamping

The Presidency presented doc. 7592/1/15 in which it analysed the comments made by delegations on a number of issues regarding the consequences of the abolition of the stamping of the travel documents when the Entry/Exit System would be implemented.

FR emphasised that it would be necessary to find a systematic solution to replace stamps in the travel documents and this for all categories of travellers. For a transitional period, FR suggested the systematic production of a secured sticker (a secured "flash code" type of 2D bar code in line with the latest Franco-German proposals for ensuring the reliability of visas). The sticker, affixed to the passport, could be produced both at traditional or automated control points. Its cost would be marginal and it could easily be read.

RO said that there were several alternatives for solving the problems singled out in the Presidency paper. Those alternatives needed to be discussed between experts and then tested in real life. **RO** mentioned as possible options, nomination of contact points, common procedures to be followed or the secured sticker mentioned by **FR**. **RO** supported the idea of a transitional period where travel documents would continue to be stamped while technical solutions are tested.

SE acknowledged the importance of the issues raised by the abolition of the stamping however **SE** had not a final position yet.

The Commission expressed its views on a number of issues raised by delegations in their written comments. In particular:

- a) Concerning the concern expressed on the impossibility to check the stays outside the Schengen area of holders of residence permits, it indicated that the purpose of stamping is to verify the stay within the Schengen area but not outside the Schengen area. The loss of the residence rights is in addition based on national law which is not harmonized. Thus it would be very difficult to include a calculation for residence permits holders into the EES.
- b) Regarding refusals of entry, the Commission pointed out that travel documents would continue to be stamped for that purpose.
- c) In relation to obligations of carriers, the Commission underlined that carriers did not have the obligation to check the entry conditions of respecting the length of the stay ie 90 days within 180 days. The only case which could be relevant is the verification whether a single entry visa has already been consumed. However, in practice given the short period of validity of such visas, it is not expected that travellers would abuse it too often. In addition, if the carrier needs to take back such a person, the costs for such a flight can always be imposed on the traveller.
- d) On the verification of the stay before issuing a residence permit within the country, the Commission stressed that in most Member States persons cannot apply for a residence permit within the country, if they initially came for a short stay. Normally persons need to leave the country and apply for a long-stay visa or residence permit in their country of origin.
- e) As regards the need of fall-back procedures in case of failure of the system, the Commission as suggested by several delegations, recommended to enter data manually.

The Commission concluded by saying that if stamping was to be maintained, delegations should reflect on how to deal with ABC gates. There won't be facilitation if a stamp is needed after passing the ABC gate. In addition, what period would prevail if a different authorised period of stay resulted from the stamps in the travel document and records in the EES. The Commission was therefore of the view that stamping should be abolished as proposed in the draft Regulation amending the SBC.

Fall back procedures in case of unavailability of the systems

The Commission presented its thoughts concerning the fall-back procedures in case of unavailability of the future Smart Borders systems, recalling the results of the first meeting of experts on this issue that took place on 22 January 2015. **The Presidency** invited the Commission to report back to the WP after a workshop on this issue, which is going to take place on 19 May 2015, with the participation of representatives of the MS.

4. Foreign Terrorist Fighters:
 - Application of the Schengen Borders Code – Follow-up
 - Update on progress on the preparation of risk indicators
 - Information by the Commission

The Commission presented to the WP a state-of-play regarding the implementation of the measures in order to enhance border checks for better identification of foreign terrorist fighters. This implementation is carried out on the basis of the conclusions reached at the informal meeting of the Heads of State and Government on 12 February 2015 and at the JHA Council of 12-13 March 2015, as well as in the light of the Commission's relevant enhanced recommendations from February last on the interpretation and application of Article 7 of SBC.

The Commission pointed out that information was received from 26 MS/Schengen Associate Countries (SAC) which provided replies to an earlier questionnaire and shared with delegations its findings on the basis of those contributions. During the discussion, **HU** gave to the WP an oral summary of its purported contribution. The Commission advised the WP that the aforementioned recommendations are going to be integrated in the Schengen Handbook by the end of May 2015. The Commission also outlined to delegations the work which is under progress in regard to the elaboration of the common risk indicators and indicated that it anticipates submitting to Council its paper by end of May 2015.

SI stressed the need to raise the awareness of the national border guards to recognise the key factors (which should be elaborated at an EU level) to identify the foreign terrorist fighters. **FR** urged for further progress in the field, given its urgency and stressed the need for coordination with all the stakeholders, including the relevant Agencies.

The Presidency invited those delegations which had not submitted their opinions to do so and declared its intention to submit a report to the upcoming JHA Council of June 2015, regarding the implementation of the aforementioned measures. This report is intended to include reference to the Common Risk Indicators, which are currently being elaborated by the Commission and are to be submitted to the Council by the end of May 2015.

5. Report on the Activities of the liaison officer networks and on the situation in Georgia and Belarus in matters relating to illegal migration

LT presented two reports on the activities of the liaison officer networks and on the situation in Georgia and Belarus in matters relating to illegal migration during the period 1 July-31 December 2013.

The Commission stressed that the reports should be presented sooner because if not, they lost their added value, in particular for risk analysis purposes. The Commission invited delegations to improve the cooperation between ILOs and this was particularly important in the light of the European Council statement of 23 April 2015 on the situation of migration flows in the Mediterranean. The Commission said that it intended to follow the discussion held in SCIFA on 19 September 2015 with a number of actions. Those actions would focus on:

- a) Supporting more actively the existing ILOs networks and increasing the role of EU Delegations in that regard.
- b) Deploying new liaison officers in key countries.
- c) Having a look into new funding possibilities.
- d) Prioritising in national programs funded by the ISF (borders) the posting of liaison officers where the needs are.
- e) Updating the mapping of the ILOs (which was done last September).
- f) Looking for more synergies with Frontex.

6. Overview about the situation at the EU external borders (based on ARA 2015, Western Balkans ARA and Eastern Borders ARA)

A representative of Frontex presented the Annual Risk Analysis (ARA) 2015 and the Western Balkans ARA and Eastern Borders ARA.

HU said how the migratory pressure was source of concern and expressed strong concerns on the trends for 2015 where the figures were expected to double compared to previous year. HU, supported by FR, pointed out that the figures on asylum applications by Western Balkans nationals did not fully reflect the situation in the region since they did not include asylum applications made by Kosovars which had been extremely high.

7. Fundamental Rights at EU's air and land borders
 - Presentation by FRA and exchange of views
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FRA presented to the WP an overview of its reports on fundamental rights issues (referred to in the Schengen and asylum acquis) at EU air and land border crossing points. The findings contained in these reports were based on over 1100 interviews with travellers, border management authorities and civil society organisations in 11 MS. **FRA** focused its presentation on selected findings and issues where it considered there is room for improvement with regard to the protection of the relevant rights of the persons concerned. **The Commission** welcomed this report and pointed out that in the context of Schengen Evaluation procedures the fundamental rights issues are going to be appropriately addressed.

8. AOB
 - Presidency activity AMBERLIGHT 2015
 - Information by the Presidency

This item was postponed for a subsequent meeting of the WP.