

ROADMAP

Title of the initiative: **Legislative Proposal to set up Registered Traveller Programme (RTP)**
Type of initiative: CWP
Lead DG: DG HOME
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It does not prejudice the final decision of the Commission on whether this initiative will be pursued or on its final content and structure.

Initial IA screening & planning of further work

A. Context and problem definition

(i) What is the political context of the initiative? (ii) How does this initiative relate to past and possible future initiatives, and to other EU policies?

This roadmap concerns a Registered Traveller Programme (RTP) for frequent, pre-vetted and pre-screened third country travellers. The main aim is to use new technology to facilitate passenger flows and keep the level of security at least as high as it is nowadays. The RTP is part of the EU's Integrated Border Management concept which is under constant development.

The Commission in its Communication of 13 February 2008 *preparing the next steps in border management in the European Union*¹ suggested the establishment of a RTP for frequent, pre-screened and pre-vetted third country travellers. This Communication was accompanied by an impact assessment.

The European Council of 19 and 20 June 2008 underlined the importance of continuing work on the further development of the integrated border management strategy, including better use of modern technologies to improve the management of external borders. The European Council invited the Commission to present a proposal for a Registered Traveller Programme by the beginning of 2010.

In its resolution on the communication, the European Parliament supported in principle the concept of the RTP and urged the Commission to speed up the process, so that the EU would have a harmonised approach as soon as possible.²

The Communication of the Commission of 10 June 2009 entitled 'an area of freedom, security and justice serving the citizens'³, feeding in to the "Stockholm programme" agreed by the European Council in December 2009, highlighted the need for the establishment of a RTP to ensure smooth entry into the Union.

What are the main problems identified?

General problems were already presented in the previous IA (SEC(2008)153).

The passenger flows at the external borders of the European Union have been growing and will continue to increase in the future. Most of the passengers are frequent travellers who comply with all the existing rules. Existing regulations require that checks are made at borders manually (entry

¹ COM(2008) 69 final.

² European parliament, Committee on Civil Liberties, Justice and Home Affairs, Draft report no 2008/2181(INI).

³ COM (2009) 262 final.

and exit) and do not allow the use of modern technologies for automating processes for third country nationals (TCN). The process imposes costs on all passengers also those who comply with the rules, as long queues can arise at peak travelling times at key border crossing points.

In this context, the main problems identified were: growing pressure of passengers flows, current legal framework that prevents take up of new technology, costs (economic and social) due to long waiting times for travellers at the borders.

Based on the previous Impact Assessment and discussion held with the stakeholders several practical implementation problems were identified; scope of the RTP, data storage, lodging an application for a RTP, vetting criteria and automation of border control. These implementation problems will be discussed in the new Impact Assessment.

Scope

An important factor in establishing the RTP is to define the main target group. In this respect, the most important aspect is to sort out whether access to the RTP and to facilitated border checks should be given for all TCNs or only to visa exempt TCNs. The target group will have an effect on many issues, such as the structure of the system, the costs, and the willingness of Member States to invest in Automated Border Control (ABC) or semi-automated systems. The more RTs, the more Member States would have an interest in exploiting ABC.

Data storage

Whenever new information systems and different types of information storages are at stake, the issue of protection of personal data and cost of the systems should be, and indeed, are raised. Prior to assessment of protection of personal data or costs, it is vital to define the possible options of required technical system and especially data storage. In this case, possible storage of the personal data of the RT could be either a centralised database (centralised system) or a token (de-centralised system).

Lodging an application

The interest in RTP among TCNs will greatly depend on how difficult or easy it will be to join the RTP. From the traveller's point of view one key issue is how convenient it will be for him/her to reach the office where (s)he will be able to lodge an application for the RTP. Usually, travellers are not willing to travel hundreds of kilometres to join a voluntary system. Therefore, the next step in developing the RTP will be to find out and decide where the traveller can lodge an RTP application. This decision will have an effect on the authorities obliged to receive and process the applications and therefore would mean an additional workload.

Vetting criteria

The RTP would require that all participants are pre-vetted and pre-screened. It is crucial to find uniform and consistent vetting criteria for all the Schengen Member States. A good starting point or at least a point of reference could be the criteria used for examining and processing visa applications.

Automation of border control

Last, but not least is the question of defining how facilitated border checks should be implemented in practice at the border crossing points. This will have great significance for many issues, for example, throughput capacity of border crossing points and hence on border crossing time. It will also have an impact on the required space and human resources needed at the border crossing point, and naturally, it will greatly influence the traveller's border crossing experience.

Who is affected?

Member States, third country nationals crossing the external border, border and visa authorities. Indirectly carriers and airport operators.

(i) Is EU action justified on grounds of subsidiarity? (ii) Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)? (iii) As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)?

No Member State is able to build up a common, interoperable RTP alone. One individual Member State's decision to grant access either to its own form of RTP or an EU-wide RTP would have an impact on all Schengen countries. The entry conditions and border checks for third-country nationals are harmonised through EC law. Any measures relating to border control would have to apply to the Schengen area without internal border controls. Schengen countries are committed to maintaining common EU borders and common standards for border controls. Therefore, the problem cannot be solved by the Member States acting alone but must be addressed at EU level.

Given the aim of facilitating TCNs border crossings across the Schengen area and the lack of tools to manage increasing passenger flows, the RTP options clearly justify proportionate joint EU action.

B. Objectives of EU initiative

What are the main policy objectives?

The objectives were already presented in the previous IA (SEC(2008)153).

The main general objective of the Registered Traveller Programme is:

- to facilitate the crossing of EU external borders for frequent, pre-screened and pre-vetted third country travellers, while ensuring overall coherence of EU border policy.

The specific objectives are:

- to allow the use of automated border control for certain categories of third-country nationals;
- to enable border control resources to better focus on checking riskier groups of travellers.

The examples of operational objectives are:

- To decrease the time and costs of border crossings to frequent travellers and to increase the throughput capacity of border crossing points
- To free up border control resources from the checking of legitimate cross border movements

Do the objectives imply developing EU policy in new areas or in areas of strategic importance?

No new EU policy in new areas will be developed. Proposal foreseen is part of the continuous development of the Integrated Border Management Strategy of the European Union.

C. Options

(i) What are the policy options? (ii) What legislative or 'soft law' instruments could be considered? (iii) Would any legislative initiatives go beyond routine up-date of existing legislation?

Pre-screening of policy options:

Taking into account the foreseen increase of passenger flows at the external borders, the throughput capacity of the border crossing points will not be sufficient. Increasing the number of border guards working at the external border will not be a workable solution. At many border crossing points additional traditional lanes and/or control booths can not be added without extensive construction works.

In the previous IA the preferred policy option included a Registered Traveller Programme open to TCN and a legal framework for the development of 'local' Registered Traveller schemes (including the introduction of automated border controls) for EU citizens, that are interoperable at EU level. (SEC(2008)153; pp. 54-56). The implementation of the second aspect, with regard to EU citizens, will not form part of this impact assessment as it seems that a legislative action is not needed to

reach the objectives in this regard and further technical analysis is necessary. The following policy options are designed in the framework of the general preferred policy option:

Scope:

- a) all third country nationals,
- b) only visa exempted.

Data storage

- a) a RTP based on data stored in a separate token,
- b) a RTP based on data stored in a centralised database.

Lodging an application:

- a) at the external border,
- b) at the consulate,
- c) both.

Vetting criteria:

- a) same as for multiple-entry visa holders (based on current EC law),
- b) more thorough vetting with additional criteria.

Automation of border control for registered travellers:

- a) fully automated,
- b) semi-automated.

A centralised database is possibly needed for a RTP and Member States need to procure some IT infrastructure regardless of which sub-options are chosen.

Certain accompanying non-legislative measures will be needed regardless of which option is chosen.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

No. The RTP does not have any notable cross-cutting impact.

Explain how the options respect the proportionality principle

The options proposed do not go beyond addressing international problems which cannot be solved by individual Member States alone. The Schengen Member States are committed to uniform border control (including the border checks) at the external borders. Consistent border control is implemented according to the Schengen Borders Code.

D. Initial assessment of impacts

What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?

Impacts of the sub-options are likely to be of economic and social nature: All the sub-options will generate operating costs at the Union level but also at Member States level (national interfaces, automated gates, if implemented). Cost savings will be incurred through lower processing costs per border crossing and decreased need for additional staff.

From the social impacts point of view all the sub-options would involve the processing of personal data and thus require strict data protection rules. All the sub-options would facilitate border crossings and would entail positive economic and social impacts from the encouragement to travel with easier and simpler procedures.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

In accordance with the final report of the entry/exit and RTP technical feasibility study the

estimated costs of the centralised entry/exit and RTP system would be in the range of 20 million euro depending on the chosen technical solution, spread out over 2-3 years and the annual maintenance and operational costs would be approximately 6 million euro.

Subsequently the costs across all Member States for developing the national interfaces would be approximately 35 million euro, excluding the implementation of automated gate systems.

These estimates will be refined taking into account the final combination of sub-options chosen.

Could the options have significant impacts on (i) simplification, (ii) administrative burden or on (iii) relations with third countries?

Examination of the RTP applications and management of the national interfaces of the Registered Traveller System would increase the administrative burden. On the other hand facilitated border checks will simplify border crossings thereby reducing the administrative burden for national administrations. The impact assessment will examine this in detail.

E. Planning of further impact assessment work

When will the impact assessment work start?

It has started already.

(i) What information and data are already available? (ii) Will this impact assessment build on already existing impact assessment work or evaluations carried out? (iii) What further information needs to be gathered? (iv) How will this be done (e.g. internally or by an external contractor) and by when?

(v) What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

Substantial amounts of data were gathered when preparing the 2008 communication, its impact assessment and the subsequent consultation paper on technical options for the systems. The data was collected from different sources mainly through studies carried out by external contractors. The impact assessment on the communication (SEC(2008)153) provides the relevant data for the problem definition. That IA drew on a backward-looking evaluation of the existing policy which identified most of the problems now being examined.

One data gap was the non-existence of reliable data on border crossings and travellers processing times at the external border. This kind of data was gathered through questionnaires launched in the Council Frontiers working party and by organising meetings with Member States' experts. External contractors were not used except analysing the cost of different implementation options. The latter is still ongoing.

Which stakeholders & experts have been/will be consulted, how and at what stage?

The Commission Communication (COM(2008) 69 final) and a consultation paper on technical options were discussed at several meetings starting from Member States' expert level ending up at ministerial and European Council level. Civil society as well as the private sector have participated actively in the debate and organised several conferences. The private sector has also provided feedback via ESRIF. Also Frontex has organised several meetings/conferences on the RTP.

A separate questionnaire to Member States' experts on the RTP was launched before an expert meeting held on 10 of July 2009. The questionnaire was discussed during the above-mentioned meeting and in addition to that Member States sent written answers.