



Council of the
European Union

Brussels, 11 November 2015
(OR. en)

12527/15
ADD 3

LIMITE

JAI 701
FRONT 202
COMIX 451

NOTE

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

No. prev. doc.: 11627/15 JAI 624 FRONT 171 COMIX 372

Subject: The consequences of the abolition of stamping

Delegations will find in the annex the replies from Bulgaria to the questions on the consequences of the abolition of stamping, set out in 11627/15.

BULGARIA

I. Possible inclusion of holders of residence permits in the EES

- 1. Is the absence from the Schengen area (EU territory) controlled in the case of residence card holders referred to in Directive 2004/38/EC? If yes, how does this control take place, given that the passports of these persons are not stamped?**

The absence from the territory of Bulgaria can be controlled through the national entry/exit system which includes the travels of third country nationals.

- 2. If Member States carry out controls on residence card holders referred to in Directive 2004/38/EC to verify their absence from the Schengen area, without stamping their passports, could this kind of controls apply to holders of other residence permits?**

The absence from Bulgaria can be controlled regarding all third country nationals regardless of the travel document stamps and regardless of the type of residence permit.

- 3. Do delegations consider that the residence permit holders (except for those referred to in Directive 2004/38/EC) should be registered in the EES, knowing that the collection and the treatment of personal data is governed by the principle of purpose limitation? In what terms should such purpose (inclusion of residents or certain categories thereof) be defined accordingly?**

Bulgaria considers that the residence permits need to be included in the Entry/Exit System.

- 4. What examples of added-value of the inclusion of residence permit holders into the EES can delegations present? Do delegations see any alternatives to this inclusion, which the Working Party on Frontiers has not yet discussed thoroughly enough?**

The added values are:

- in the legislation (i.e. Directive 2004/38) a permissible duration of absence is regulated which could not be controlled if there are no stamps in the travel documents, as well as records with information on the travels of the person.
- for the purpose of the check in relation to Art. 38, Para 2(e) of the Council Decision on the establishment, operation and use of the second generation Schengen Information System (SIS II) – alerts on objects for seizure or use as evidence.
- for the purpose of the checks carried out on the territory, with the purpose of establishing the accordance of the grounds for entry and stay of the person in the Member State.

- 5. For those Member States which stamp residence permit holders' passports, can they indicate the number of permits withdrawn for absences from the Schengen area based on the checks at the external borders, if possible in comparison with the number of residence permits issued per year?**

Bulgaria does not calculate the stay on the territory of Schengen, respectively the absence from the Schengen area.

- 6. Should the inclusion of residence permits in the system provide for a functionality to calculate the time spent outside the Schengen area? Or would it be enough that the system reflects the validity period of the residence permit and registers the entries and exits?**

In case every entry/exit in/from the Schengen area of a third country national, holder of residence permit, is entered and stored in the entry/exit system (a check can be made on the stay on/outside the territory of Schengen), we do not consider it necessary to provide such functionality.

- 7. The inclusion of the residence permit holders would have an impact on procedural matters, namely:**
- **when would the data of the residence permit holders be registered?**

On each entry/exit in/from the Schengen area, the grounds for entering the country/Schengen area need to be entered in the entry/exit system following the entering of the data for the person and passport – i.e. at this stage the data for the residence permit need to be entered.

- **would additional data need to be recorded in the EES, i.e. the residence permit number, the issuing authority, issue date, date of expiry?**

Yes.

- **who could have access to this data?**

The authorities allowed to access the EES.

- **what would be the retention period for the data of residence permit holders?**

Such as the retention period for the data in the EES.

- 8. Do delegations consider that there should be a revision clause on this aspect (added-value, possible drawbacks, etc.)?**

Bulgaria does not consider it necessary to have a revision clause.

II. How to handle entry refusals after the abolition of stamping

- 1. Do delegations consider that entry refusals should be registered in the EES as well as the corresponding reason(s) for refusing entry? Do delegations consider that refusals of entry should be stamped in the passports in addition to registration in the EES? Should refusals of entry only be stamped in the passports?**

Yes. In case of an issued refusal for entry the travel documents need to be stamped with reference to the reason for refusal.

- 2. Do delegations see any alternatives to the proposed solution, which the Working Party has not yet discussed thoroughly enough? What are the drawbacks, if any, of maintaining the obligation to stamp the refusals of entry in the passport?**

Other solutions are not necessary when refusals for entry are entered into the entry-exit system and stamping the travel documents in case of refusal for entry.

- 3. What examples of added-value of the inclusion of entry refusals into the EES can delegations present?**

The border authorities of the Member States will have information on the issued refusals to third country nationals when they have changed their travel documents and there is no information from the stamps placed on refusal for entry.

- 4. The inclusion of the entry refusal would have an impact on procedural matters, namely:**
- **when would the data be registered?**

When issuing the refusal.

- **would the same data be registered into the system as for any other third-country national or would additional data need to be recorded such as date and time of refusal of entry, authority which refused the entry, entry border-crossing point (BCP), reason for refusal of entry (the list of which is given on the standard form for refusing entry)?**

The standard information needs to be included (which shows at which BCP the entry was refused) and data for the reasons for the refusal in accordance with the form for refusal.

- **for how long would this data be retained?**

Such as the retention period for the data in the EES.

- **who could have access to this data?**

The authorities allowed to access the EES.

- 5. Do delegations consider that there should be a revision clause on this aspect (added-value, possible drawbacks, etc.)?**

Bulgaria does not consider it necessary to have a revision clause.

III. The issue of checks within the territory of a Member State after the abolition of stamping

- 1. To what extent are mobile devices secure enough to carry out such tasks? Would there be a need to invest in uniform mobile devices taking into account the relevant financial impact or would Member States welcome the idea to develop a mobile application that could be installed on devices which are already in use?**
- 2. Do Member States see any alternative solutions which have not been developed yet?**
- 3. To what extent has the objective and the necessity of the access to the data to be defined (purpose, which authorities should have access to the data, in which cases, etc.)?**
- 4. Are there any fall-back procedures needed in the short term as for example when there is no connectivity in a remote area, or when a mobile device is defective? How is the access to the Schengen Information System managed in these cases?**

When using mobile devices, sufficient level of security can be reached. Additional investment for purchasing mobile devices is not necessary. The experience from carrying out checks in SIS during checks inside the territory should be used.
