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LIMITE

DAPIX 301
SIRIS 161
SCHENGEN 58
COMIX 662
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NOTE

From: Presidency
To: DAPIX (Friends of the Presidency) - Interoperability of EU information systems
Subject: Possibilities for interoperability between EES and SIS

Background

In April 2016 the European Commission¹ identified several shortcomings of the current large-scale IT systems in the area of freedom, security and justice. In order to examine those shortcomings in more detail the High-Level Expert Group on information systems and interoperability was set up.

The High-Level Expert Group noted in its final report², published on 11 May 2017, that interconnectivity of IT systems should only be considered on a case-by-case basis, while evaluating if certain data from one IT system needs to be systematically and automatically reused to be entered into another system. The group considered that - provided sufficient progress is made on the other three dimensions of interoperability - there is less need for interconnectivity between systems for the sole reason of improving and facilitating access to and exchange of data.

¹ European Commission *Communication on Stronger and Smarter Information Systems for Borders and Security* of 6 April 2016 (COM(2016) 205 final)

² High-level expert group on information systems and interoperability *Final report* of 11 May 2017 (8434/1/17 REV 1)

One real example of interconnectivity is the interconnection of the proposed Entry/Exit System (EES) and the Visa Information System (VIS). In accordance with the political agreement between the Council and the European Parliament, data contained in VIS will be systematically and automatically consulted by the EES in order to store a very small subset of VIS data (visa sticker, number of entries, period of stay) in the EES. This will enable the EES users to process data and make decisions on visa holders correctly while at the same time meeting the requirements of data minimisation and data consistency.

This approach also follows the procedures in IT systems today: data is collected by Member State officials, entered into specific national IT system and then distributed by replicating this to the relevant EU large-scale IT system. Similar logic applies in case of data update or deletion. All data in EU large-scale IT systems originate from a Member State.

In the context of interoperability discussions, in particular at the meeting of DAPIX: Friends of the Presidency on interoperability of EU information systems on 22 September 2017, some delegations suggested to consider an additional interconnectivity between EES and the Schengen Information System (SIS), in particular in the context of return decisions.

Challenges and opportunities

In line with the recommendations of the High-Level Expert Group, any interconnectivity should be considered on a case-by-case basis. For example, under the political agreement between the Council and the European Parliament, the interconnection between EES and VIS, follows the common workflow of both systems – a visa holder crossing the border. According to the Technical Study on Smart Borders³ this is likely to happen around 20 million times a year across the Schengen area. Lastly, all requests for retrieving and importing data from VIS to EES would originate from the Member States.

This short explanation should help to understand the case of interconnectivity between VIS and EES: there is a common process, but all data movements still take place at the request of a Member State and the volume of transactions is high to justify costs reduction occurring from process optimisation.

³ https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/borders-and-visas/smart-borders/docs/smart_borders_technical_study_en.pdf

As regards possible synergies between EES and SIS, it is important to note that the latest proposal on the use of SIS for the return of illegally staying third-country nationals (TCNs) requires entering and processing data in SIS in the form of alerts on TCNs subject to a return decision. Once the person leaves the Schengen territory, Member States have to register the exit in the EES and following this, in certain cases and based on the national legislation, it is possible for the Member State which issued the alert to activate an alert on the entry ban in SIS if the person has exited the Schengen area.

When considering possible interconnectivity between EES and SIS, the volume of data, the point of data entry and the process should be looked at:

- the volume of return decisions⁴ in 2016 was about 500 000, which is significantly lower than the volume of transactions between EES and VIS;
- as regards the data entry, any data on either a return decision or an entry ban is subject to an administrative decision by a Member State following a consideration of circumstances and facts. Entry bans cannot be activated automatically once the person leaves the territory. There may be grounds to activate an entry ban in SIS but that should be done based on national legislation by the competent authority responsible for the consideration of such cases. Usually, that authority differs from the border check authority;
- if a return decision is automatically deleted in SIS based on the basis of information coming from EES and an entry ban is activated as a direct result of interconnectivity between large-scale IT systems at EU level, that would mean that the national authority issuing a return decision would still have a return decision registered in the national system. This does not correspond to the current data entry practices where all data originates from the Member States and - if implemented like this - could create a situation where there is no owner of data, and information in large-scale EU IT systems contradicts data in a national system.

On this basis and taking into account the discussions in the Schengen Acquis Working Party on 2 October 2017, where it was concluded that the SIS proposal would not be amended in this direction at this stage, the Presidency believes that interconnecting EES and SIS is for now premature.

⁴ http://ec.europa.eu/eurostat/statistics-explained/index.php/Statistics_on_enforcement_of_immigration_legislation