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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on JHA Information Exchange Working Party on Frontiers
N° prev. doc.:	11615/25 + COR 1
Subject:	Non-paper on the Implementation of Interoperability: proposal for risk mitigation - compilation of comments

Delegations will find attached revised compilation of comments received on document 11615/25.

Topic	MS Comments
<p>MID pre-launch</p>	<ol style="list-style-type: none"> 1. <i>CZ: The topic has been discussed by experts both on national and EU level. Based on the outcomes of these discussions, we are of the opinion that there is consensus on the need of the MID pre-launch. It is necessary that the data collected during border control (alphanumeric and biometric data) will be used immediately after the collection of data to initiate the MID process, so that any yellow flag is directly used during the process leading to the decision on entry/exit/refusal. At this point, however, our attention is primarily focused on the EES entry into operation, and we prefer to address this issue in detail only after the entry into operation.</i> 2. <i>NO: The issue of the MID not being triggered until after the decision of entry or refusal of entry has been taken has long been a concern both in the EES and IO community. Since the MID will not start until personal data is committed to the EES central system (and the CIR), the understanding has been that MID could contribute to a prolonged border process. As a consequence, member states could face challenges with longer queues at the border and unhappy travellers. The concept of a "MID pre-launch" was therefore introduced and discussed in various formats in the IO community.</i> <i>During the IO Advisory Group meeting in Tallinn 5 September 2025 we took note of the Commission's brief status report on this topic. There seems to be a renewed effort to start a process with the relevant communities in order to find a solution without introducing a "MID pre-launch". This is a positive step since the term "pre-launch" implied a work-around or implementing something which was not a part of the legal base. In this regard, we support the suggestion that there should be held at the appropriate time a joint EES/IO Expert Group meeting in order to discuss the topic further.</i> 3. <i>RO: RO reiterates the general idea discussed during these years regarding the need for a MID pre-launch in order to shorten the MID process time and provide in a timely manner any MID connections to the officer verifying the person concerned.</i> 4. <i>SE: We have taken note on the discussions within the Entry Exit System (EES) community on when the personal information will be registered in the central system and there seems to be an understanding that the information will be registered upon the decision of entry or refusal of entry. From an Interoperability (IO) perspective this would mean, according to our interpretation, that the Multiple Identity Detector (MID) would only launch upon the border guard's decision. In turn this means that the result of the MID cannot be taken into account when deciding</i>

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	<p><i>on entry or refusal of entry. To mitigate this risk, there have been discussions within the IO community on a proposed MID pre-launch.</i></p> <p><i>Even though we share the concern regarding the discussions in the EES community, and we would very much welcome a discussion on the legal issue on this matter, we believe the term MID prelaunch to lead to wrong conclusions. Instead, we would argue that the discussions in the EES community are based on an unfortunate interpretation of the original IO proposal and legislative files (IO, EES and Schengen Borders Code) creating a demand for a MID pre-launch or some kind of work-around. Instead, we are of the opinion that the current legal basis allows for the MID to be launched before a decision of entry or refusal of entry is made, and therefore there is no need for a pre-computation or pre-launch. The relevant regulations already allow for MS to register personal information in the EES during the border process prior to a decision.</i></p> <p><i>Our reasoning is the following:</i></p> <p><i>The objectives of Interoperability</i></p> <p><i>We believe there are many arguments for the fact that an EES registration of the individual file should be made before a decision is taken by a border guard, allowing for the triggering of MID and in turn for a potential link resolution. We are of course aware that a link cannot on its own form ground for refusal of entry, however, the link resolution is one of many important tools for the verification of identity.</i></p> <p><i>The most important argument is perhaps that the main objectives of the Interoperability Regulations are: to improve the effectiveness and efficiency of border checks at external borders; to contribute to the prevention and the combating of illegal immigration;</i></p> <p><i>And those objectives should be achieved by (among other things):</i></p> <ul style="list-style-type: none"> <i>ensuring the correct identification of persons;</i> <i>contributing to combating identity fraud;</i> <p><i>If the MID, one of the most important tools to achieve the above, is only being triggered when a decision has been made, then we would miss some of the main objectives of the Interoperability Regulations.</i></p> <p><i>The concept of entry</i></p>

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	<p><i>One of the first things that we have tried to understand is whether “entry” would mean the exact point in time when the border guards make a decision or if it could be understood as a process. It has been important to us to understand this since the word “entry” is used repeatedly throughout both the Schengen Borders Code and the Entry Exit regulation. If the word entry means an exact point in time for when a third-country national is authorised to enter or enters the territory it could be argued that the registration in EES would be done upon entry, meaning the point when a decision is made.</i></p> <p><i>By reading article 8 of the Schengen Borders Code, we understand the word or concept of entry as being both a process during which a person is checked, but also the point in time for when a person enters the territory. It could therefore be argued that when entry is used in article 6a of the Schengen Borders Code, it should be interpreted as the whole process of entry, and not when a decision has been made.</i></p> <p><i>Article 6a of Schengen Borders Code: “On entry and exit, data on the following categories of persons shall be entered in the EES in accordance with Articles 16, 17, 19 and 20 of Regulation (EU) 2017/2226:”</i></p> <p><i>Individual file and entry record</i></p> <p><i>It seems that the Entry Exit Regulations differs between the Individual file and the entry/exit/refusal of entry record (article 14 of EES regulation). The record of entry, exit or refusal of entry shall be linked to the individual file. From our understanding the entry record replaces the entry or exit stamp. The logic would be that the individual file is created during the border process, its creation would trigger the MID and any link resolution could form part of the verification of identity needed in the border process. Consequently, what would be registered upon decision to authorise entry or refuse entry is the entry or exit record, not the entire individual file (as discussed at the moment in various groups).</i></p> <p><i>We find support for the interpretation that an individual file is created before a first entry record is affixed to the individual file on page 25 of the EES handbook: “Creation of first entry record After following the steps in Use of EES at entry (i.e. search of previous file and verifying the identities) and creating an individual file in the EES for the TCN (as per Create and update the individual file), the border authority must create a first entry record if the TCN is entering a Member State for the first time.”</i></p>

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	<p><i>If we allow for the registration of an individual file before a decision is made, it would allow for the MID to be launched in accordance with article 27.1(a) of Regulation 2019/817: “1. Multiple-identity detection in the CIR and SIS shall be launched where: (a) an individual file is created or updated in the EES in accordance with Article 14 of Regulation (EU) 2017/2226;</i></p> <p><i>Verification of identity</i></p> <p><i>Recital 65 of regulation 2019/817 states the following: “Should a query of the MID through the ESP result in a yellow link or detect a red link, the border guard should consult the CIR or SIS or both in order to assess the information on the person being checked, to manually verify his or her identity data and to adapt the colour of the link if required.”</i></p> <p><i>According to our interpretation this recital shows that the link resolution process is meant to be part of the identity verification performed by the border guard in accordance with article 8 of regulation 2016/399 (Schengen Borders Code). The recital clearly speaks of “the person being checked”.</i></p> <p><i>Without delay</i></p> <p><i>In accordance with article 29.3 and 4 as well as recital 43 of regulation 2019/817 the authority responsible for the manual verification of different identities shall assess the different identities without delay. We have in the IO community discussed the fact that border guards would have 12 hours to solve the MID link since that is the time limit for border authorities to decide whether to authorise entry or refuse entry. However, if the registration in EES is made first when the decision to authorise entry has been taken, it would mean that the MID is triggered when the border process has already ended and therefore there would be no need to abide to the 12 hours when resolving the link. The person would already be on the territory, the border process would be over, and the link resolution would only be for file maintenance only.</i></p> <p><i>Confirmation of the data</i></p> <p><i>We have also tried to find arguments for a registration in EES upon entry decision, as being discussed in different forums at the moment. What we have stumbled upon in our reading of the legislation and in our discussion with other MS is article 14.5 of the EES regulation. It states that when a third-country national pre-enrolls data it should be confirmed by the border guard when the decision to authorise or to refuse entry has been taken. This could be an argument for the case that a EES registration would only be made when the decision has been taken by the border guard.</i></p>

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	<p><i>However, the article also refers to article 8a of the Schengen Borders Code. Point 4 and 6 of article 8a states that there will be a verification of the third-country nationals' identity and only when the border guard has verified that the travel document corresponds to the person in front of the border guard and that the pre-enrolled data is correct, he or she shall decide on entry or refusal of entry.</i></p> <p><i>We therefore assume that a verification of the identity would be done before a decision is made by the border guard and before data is confirmed and sent to the EES. This verification should according to us involve any link resolution (if needed).</i></p> <p>...and finally</p> <p><i>In some of the existing online trainings both COM and eu-LISA are teaching that an EES registration would trigger the MID which in turn could lead to a link resolution before a decision could be made.</i></p> <p><i>According to our interpretation there is no need for a pre-launch, pre-computation or any other sort of workaround or technical solution to work around the problem, since we do not see a legal problem with triggering the MID during the EES registration and before the decision is made by the border guard.</i></p> <p>5. SK: <i>Yes, this should be explicitly addressed, as the MID process can become a bottleneck—particularly during border control procedures."</i></p> <p>6. MT: <i>Malta expresses support for the request for the Commission to establish an appropriate expert group on the Multiple Identity Detector (MID) tool ahead of its launch, in order to examine this topic in detail.</i></p>
<p>Frontex – extension of optional operational support</p>	<p>1. CZ: <i>The non-paper is raising an important topic. Since the Czech Republic does not currently have enough information to take a position, the following debate should clarify in particular: what the process should look like in practice; how effective cooperation between Frontex and national authorities will be established; what communication tool/channel will be used; whether system-to-system communication with Frontex will be possible; who will be responsible for incorrect biometric verifications by Frontex in the event of a dispute with the data subject.</i></p> <p>2. RO: <i>Before expressing a position on the extension of Frontex mandate regarding the allocation of a role related to MID, RO considers that the conclusions of the discussions to be held regarding the political support for the need to extend the agency's mandate in higher fora - including the JHA Council in October - should be awaited.</i></p>

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	<p><i>Beyond a political decision, it is important to know, before expressing a position regarding an extension of Frontex mandate for MID, to what extent there is already expertise within the Agency in the field of biometrics or whether such an extension would imply staff recruitment from Member States.</i></p> <p><i>Since RO is one of the states that contributes significantly to the Agency's staff (3rd place among member states in terms of the Agency's own staff - 16.6% of the total), to the detriment of its own staff situation, it is obvious that a well-founded response must take into account a wide range of factors, including the Agency's currently available resources and how the Agency specifically views the need for expansion.</i></p> <p><i>In practical terms, there are no formal, concrete elements, at this time, regarding what is envisaged by the Agency's involvement in the MID workflow: a new category of staff, to be seconded to operations on the territory of some or all member states to manage red, white or yellow links, or a new unit within the Agency that should, somehow, be integrated into the MID workflow (if applicable).</i></p> <p><i>It is currently not possible to estimate how many "yellow connections" will be generated during border checks, nor what the practical, concrete support from Frontex will be for managing these situations.</i></p> <p><i>Additionally, a feasibility study on the revision of the European Border and Coast Guard (EBCG) Regulation is underway. This study could also analyse the impact of a possible extension of the Frontex mandate in this regard – including these tasks and the implications this would entail in relation to MID.</i></p> <p><i>In conclusion, before expressing positions on the subject of extending the Frontex mandate for the MID, Romania considers that there should be a working document that summarizes how the initiator of the idea sees Frontex involvement as feasible, a document that can be circulated nationally for a pertinent and comprehensive assessment.</i></p> <p>3. NO: <i>ETIAS Central Unit (Frontex) will resolve yellow links for a period of one year during the MID Transitional Period according to the IO regulations. In order to perform this task, Frontex is setting up a dedicated unit and recruiting operators, some of which are trained by biometric experts from member states. As a result of the MID transitional Period, the ETIAS Central Unit will gain unique experience and knowledge which could be of use to the member states. Among their tasks will be to compare finger prints and facial images, analyse inconsistencies in biographical data and biometric data. Most notably, they are likely to build an understanding of the complexities regarding yellow links which few member state will have at this stage. We are mindful of the fact that this knowledge will be lost after the MID Transitional Period, since there is no longer a need for the operators that have been recruited for the above-mentioned task. In light of this it seems sensible to consider how to utilize their knowledge and capacity to the benefit of the member states.</i></p> <p><i>We are aware that there are uncertainties and outstanding legal questions that need to be answered. As underlined by Frontex in their own assessment, the issue of Data protection and a secure communication between ETIAS Central Unit</i></p>

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	<p><i>and the member states are some of the issues that will need to be resolved, depending on what role ETIAS Central Unit would have. Also, any legal process needed should not be started if this leads to a higher risk of delaying the implementation of the IO architecture.</i></p> <p><i>NO supports the proposal to analyse further the possibility for Frontex to continue supporting the member states after the start of the full MID period. In what capacity and whether this is a viable option should be a part of the analysis.</i></p> <p>4. SE: <i>The proposal to use Frontex after the MID TP has ended, to - among other things - help MS that have not reached operational readiness to resolve yellow links raises a number of questions. As Frontex has stated in their own analysis of this issue and during the previous discussions, this kind of support would exceed the agency’s mandate. Even though a revision of the Frontex regulation is envisaged it is not certain that such revision would be finalised in time for the MID TP thus creating a gap between the end of MID TP and the entry into force of the new revised Frontex regulation, a gap MS would have to bridge. A second legal issue, also underlined by Frontex, is that of the need for a thorough assessment of data protection, since links involves sensitive personal data.</i></p> <p><i>First, SE see practical issues that need to be further discussed. For example, a border guard that has the interviewee in front of him or her would be able to ask follow-up questions directly as the yellow link resolution is ongoing. If instead a back-office at Frontex would have to be contacted for any yellow link resolution that a MS is notified about such kind of direct follow-up question would not be possible. Also, if yellow link notification would be sent directly to the Frontex back office for resolving, when and how would Frontex decide whether or not to contact the MS concerned. Extending the Frontex operational support to also cover yellow link resolution after the MID TP could in the prolongation lead to MS relying fully on Frontex to resolve yellow links instead of just using Frontex as support in cases of high influx.</i></p> <p><i>Another issue is that of finance. Frontex has grown exponentially together with its mandate during the last decade and the question must be discussed whether this would be the best use of its budget. Would MS get the most out of their money if channelled through Frontex, or would it be more financially efficient if MS set up a yellow link resolution on their own?</i></p> <p><i>Frontex lifts the argument of economy of scale in their analysis arguing that since very little is known about the number of yellow links that MS will handle, a centralised solution is better. However, a decentralised organisation is more agile and would be able to adapt quicker if the number of yellow links is higher (or lower) than foreseen.</i></p> <p>5. SK: <i>Yes, this would be beneficial for Member States. However, it would require an extension of Frontex’s mandate, which implies a legislative amendment</i></p>

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	<p>6. <i>MT: Malta expresses support for exploring the possibility for Frontex to provide optional operational support to Member States following the MID transitional period.</i></p>
<p>Communication Solution</p>	<p>1. <i>CZ: Since the beginning the position of the Czech Republic in this matter was somehow reserved. On various occasions our representatives in various fora have declared that instead of developing a brand new communication channel (number of which is quite significant), we would prefer to use the established and functional communication channels and to develop only one dedicated for EES and its needs. In general, the Czech Republic prefers an evolutionary, not revolutionary approach towards the IO, which means to utilize functional processes, not to replace them with new solutions.</i></p> <p><i>We may assume that the decision to create a new communication channel is highly probable, but it should only cover the use cases that cannot be covered by the existing channels. Let the already established ones serve their purpose and do not add new projects beyond the existing means. It is inevitable the new channel is technically possible to integrate into our national systems via API - it must not be a stand-alone web application. The idea is that the user is not aware which channel is used to send the message. He or she would only write down the inquiry in the national system and it will be handled automatically by the national application.</i></p> <p>2. <i>ES: On the matter of communication and link management, the validation of the Communication Solution should be a priority, with budget allocation and approval completed within a fixed deadline. The design of this solution should be capable of adapting to future legislative changes and system expansions without major redevelopment. Integration and cooperation with existing EU systems would avoid duplication of communication channels and maximise operational efficiency.</i></p> <p>3. <i>NO: The need for a communication solution has been a topic in the IO community since 2022. In the IO Advisory Group a Task Force developed a list of use cases which were discussed and analysed, and eu-LISA created an Impact Assess Report on what would be the best technical solution, should a communication solution be realized. In the EES community there are also use cases which have been identified. The Commission stated in 2022 that they acknowledged there were use cases where communication needs might arise. Even though there are examples of mandatory communications for member states in the IO regulations, more legal changes are likely to be necessary to develop a communication tool.</i></p> <p><i>The work that has been done in the IO community shows that communication between authorities across member states is likely to be needed. In principle NO therefore supports the development of a secure and efficient Communication Tool, in</i></p>

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	<p><i>line with relevant regulations, fundamental rights and data protection. However, more analysis is needed in order to identify additional legal changes and to assess whether this poses a risk of delays in the IO projects.</i></p> <p>4. RO: <i>RO considers that the financial assumption by the European Commission and the development by eu-LISA of the Communication Solution (as in the case of the Central Solution for Link Resolution (CSLR)) is necessary.</i></p> <p>5. SE: <i>Regarding the communication solution SE are in general positive towards the idea to have a solution that allow MS authorities to communicate. Some legal issues need to be further discussed, e.g. the legal base for such tool, exactly what would be allowed to communicate and especially the use of free text. If authorities at all would be enabled to communicate using free text on issues regarding personal information it has to be done in full respect of existing rules on fundamental rights and data protection. We believe this issue to be legally complex and in need of a thorough legal analysis.</i></p> <p><i>It is also important that we prioritise on delivering on the existing regulation and meet the dates set for EiO of the IO components. First, we should focus on the need to have, and then on the nice to have. A communication solution would make the life easier, at least to some extent, for the authorities working with link resolution. However, it is not necessary to fulfil the obligation set by the regulation.</i></p> <p><i>SE does not see the urgency in delivering a communication solution. Instead of aiming to deliver such tool within the scope of the IO implementation, discussions could be initiated in Commission’s expert groups analysing any new legal requirements and also approaching this is issue with a more holistic view taking into account already existing communication channels.</i></p> <p>6. SK: <i>This issue highlights the need for Member State-to-Member State communication when resolving or rectifying a yellow link. Currently, separate communication channels exist for each individual information system (SIS, VIS, EURODAC, ECRIS-TCN, EES, ETIAS). For example, a Slovak SIRENE officer communicates with a German SIRENE officer via one channel, while a Slovak Visa Authority officer communicates with their German counterpart through a different channel. These channels are not unified. SIRENE and VIS, for instance, operate independently. For interoperability (IO) purposes, it would be ideal to establish a more universal solution. Communication Solution to streamline and standardize these exchanges.</i></p>

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	<p><i>The two existing IO regulations do not address this need. It has been raised repeatedly since 2022/2023, yet the European Commission has not finalized the necessary legislative framework. Such legislation is essential for the proper implementation of the Communication Solution.</i></p> <p><i>Without this tool, resolving or rectifying yellow links will remain unnecessarily complex.</i></p> <p>== Yes, the availability of a unified Communication Solution would be highly desirable.</p> <p>7. <i>MT: Malta expresses support for requesting the Commission, eu-LISA and Member States to conduct an impact assessment on the Communication Solution demand request procedure, which is yet to be validated and currently lacks an allocated budget.</i></p>
General	<p>1. <i>CZ: We are ready to engage in discussions on the above topics, or on other topics that may be identified in the future, both within PS IXIM and at any dedicated meetings.</i></p> <p><i>We would like to thank the DK Presidency team for including agenda items devoted to discussion of the above-mentioned topics and BE Colleagues for identifying important issues and preparing the non-paper.</i></p> <p>2. <i>DE: In regard to the Belgian non-paper “implementation of interoperability: proposal for risk mitigation” (ST 11615/25) Germany supports the Belgian assessment of the practical needs of Member States for a mitigation of risks in the interoperability implementation as well as the general approach of asking the Commission for further analysis of the issues raised. Nevertheless, the details still require further examination, in particular with regard to a possible need for legal changes. For example, the proposal on the extension of Frontex’s role needs further discussions in regards to the extent and the scope of this support.</i></p> <p><i>Therefore, we look forward to a more thorough discussion at the upcoming IXIM Working Party.</i></p> <p>3. <i>EL: Hellenic Police advocates Belgium's proposal for an impact assessment to be prepared by the European Commission, in cooperation with Eu-LISA and the Member States.</i></p> <p>4. <i>ES: The three proposed measures by the Belgian Delegation are of critical importance in the context of interoperability, as they provide concrete solutions to issues that currently remain unresolved. These measures enhance the efficiency of the processes involved in the business flow, contributing to smoother and more seamless cross-system interactions. Furthermore, they have garnered broad support from Member States, reflecting a strong consensus on their relevance and potential impact.</i></p>

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	<p><i>Taking the above into consideration, the Spanish Delegation would like to complement certain contributions. The adoption of a mandatory milestone calendar with clearly defined intermediate deadlines and public progress reports would help ensure transparency and accountability throughout the implementation process. Moreover, the establishment of coordinated contingency protocols would create a unified framework for responding to technical malfunctions, system overloads, or other crisis scenarios, thereby ensuring the uninterrupted operation of external border controls under any circumstances.</i></p> <p><i>In addition, the creation of something like an “Interoperability Rapid Response Team”, deployable in situations requiring urgent intervention, would further strengthen resilience. Joint training programmes involving Member States, Frontex, and eu-LISA, combined with an official certification process, might be as well proposed in order to ensure harmonised technical and operational skills across the Union.</i></p> <p><i>From a legal and financial perspective, the creation of a dedicated EU-managed Interoperability Fund might be proposed to provide the necessary resources to address unforeseen or emerging needs during and after the MID transitional period.</i></p> <p>5. HU: <i>We support the document's objectives to reduce risks related to implementation and operation, but with regard to elements such as the Communication Solution, more information is needed on the structure and use of the CSLR. In light of this, we support that these issues be included on the IXIM agenda, where we would like to hear detailed information from the Commission and eu-LISA.</i></p> <p>6. SI: <i>We are keen on supporting the BE proposal re risk mitigation IO</i></p>