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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS

Preparing the next steps in border management in the European Union

IMPACT ASSESSMENT

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Lead DG: Justice, Freedom and Security

1   PROCEDURAL ISSUES AND CONSULTATIONS OF INTERESTED PARTIES

This strategic initiative is to be seen in the context of the progressive establishment of a European model of integrated border management of the external borders. In the Commission Legislative and Work Programme (CLWP) 2008 it is stated that "the EU needs to protect its external borders with common tools, to prevent illegal migration, and maximise efforts to counter human trafficking and reduce the tragic death toll of immigrants in the sea trying to reach our borders". According to the CLWP 2008 the main aims of this proposal are "to strengthen border control procedures on third-country nationals to help better management of migration flows, preventing illegal immigration, as well as any possible threats to the security of the EU and to facilitate border crossing (both on arrival and on departure from the EU) to both EU citizens and third-country nationals bona fide travellers, thus allowing to better focus resources on border controls". This impact assessment report examines policy options in order to achieve the above mentioned goals.

The report is based on data collected from interviews as well as from case studies, pilot projects and literature reviews. Interviews were mainly held with experts with regard to the already existing systems in the Member States. The data-gathering and a large part of the consultations with relevant authorities in the Member States were undertaken through two external studies ordered by the Commission in December 2006 and June 2007 (launch of request for services)[1]. The external studies constitute the main support for this report. The problem, objectives, policy options and technical implementation assessed were based on the draft final reports of the first study and the interim report of the second, prepared in close consultation with the Commission and on the basis of a desk analysis of appropriate analytical methods and applicable legal documents. The Contractors provided the methodological tools in line with the Commission's guidelines and the handbook on impact assessments. They carried out an integrated assessment of the direct and indirect impacts of a range of policy options, derived after careful analysis of the problems and objectives by using the appropriate analytical methods. The external studies and this report have been drafted with input from numerous contacts between the Directorate-General for Justice, Freedom and Security and the contractors. An inter-service meeting with other services including Legal Service (SJ), Taxation and Customs Union (TAXUD), Fisheries and Maritime Affairs (FISH), Enterprise and Industry (ENTR) and External Relations (RELEX) was held in November 2007. However, it should be noted that DG TREN formed part of the steering committee for the external study and was involved in the process already from the very beginning. Taking in the account the nature of the Impact Assessment and the Commission Communication Minimum standards for consultation were met.

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[1]   Preparatory study to inform an Impact Assessment in relation to the creation of an automated entry/exit system at the external borders of the EU and the introduction of a border crossing scheme for bona fide travellers ('Registered Traveller Programme') made by GHK and Entry/exit Feasibility study made by Unisys. Studies will be published on the website:
http://ec.europa.eu/dgs/justice_home/evaluation/dg_coordination_evaluation_annexe_en.htm

During the Portuguese Presidency the use of new technologies for enhancing border management, including an entry/exit system and a Registered Traveller Programme were discussed at the Informal Strategic Committee on Immigration, Frontiers and Asylum (Scifa) on 4-5 September 2007 and the Informal Justice and Home Affairs (JHA) Council on 1-2 October 2007. Most Member States agreed there is a need to make better use of new technologies in the area of border control and welcomed in principle the introduction of an entry/exit system and a Registered Traveller Programme.

The Impact Assessment was revised to take into account the opinion issued by the Impact Assessment Board (IAB) on 4 and 14 December 2007. All the comments made by the IAB were taken into consideration in the revised Impact Assessment. On the basis of the comments, amendments were made into the Impact Assessment, especially regarding economic migration and its management; sanctions; the responsibilities of the Commission and the Member States; also the assessment of the status quo and baseline was more defined and the omission of two policy options was better justified. The impact of different options on the time required for border crossing and the amount of border guards were considered only on a general level, due to the scarcity of available data and the fact that these impacts will vary from one border crossing point to another. In relation to productivity, two examples were added. They indicate that the productivity is completely different in each country and, in fact, at each border crossing point. The traveller flows and especially the traveller profiles and the capacity of the border crossing point have an impact both on the border crossing time and on the productivity.

This Impact Assessment, the Commission Communication and the separate Commission Staff Working Paper which will be published in the beginning of 2008 are the Commission´s response to the invitation set by the European Council. Based on these documents, it is the aim of the Commission to launch a political discussion with Member States on the way forward regarding the entry/exit system and the Registered Traveller Programme. The Commission will consider further the preparation of concrete proposals and the substance of those proposals on an entry/exit system and a Registered Traveller Programme in the light of discussions with the Member States and the European Parliament.

2. PROBLEM DEFINITION

2.1. The current framework

2.1.1. Passenger flows

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 so called bona fide travellers and are granted entry in compliance with the existing Regulations and rules; but there are also serious crimes closely related to cross border movements of people: travel document and identity fraud, people smuggling, human trafficking and terrorism.

There are in the order of 300 million EU27 external border crossings per annum[2] (i.e. approximately 150 million movements into the EU and 150 million out) at designated border crossing points[3]. It is estimated that 160 million of these border crossings are made by EU citizens, 60 million [4] by third country nationals (TCN) not requiring a visa and 80 million by TCN requiring visas[5]. For the time being, only official data is provided by Eurostat. However, this data is based on overnight stays.

In accordance with the data from the Member States there were 880 million EU27 external border crossings in 2005 and 878 million in 2006. Member States do not record such movements in a coherent manner, so the rates are based on estimations or samples. It is not known how many of the border crossings were made by TCN.

Existing regulations require that checks are made at borders (entry and exit) of the identities of passengers and whether passengers are listed in various databases. The required resources in terms of border guards can be estimated to around 11,500 persons at a cost of 400 million euro[6]. No statistics are collected on the number of border guards in the field of border checks.

It is estimated that there were up to 8 million illegal immigrants within the EU25 in 2006[7]. An estimated 80% were within the Schengen area. It is likely that over half of illegal immigrants enter the EU legally but become illegal due to overstaying their right to stay[8].

The increasing traffic at the external borders has had both positive and negative effects on the Member States. One of the positive effects is increased social interaction between people and growth of the economy in the Member States. As to negative effects, it is hard to know exactly or even reliably estimate the number of third country nationals illegally residing in the Member States. The term "illegal immigration" is used to describe a variety of phenomena. However, border crossing procedures should be eased to the maximum for the bona fide majority of travellers, as long as the travellers´ current and future bona fide status can be guaranteed.

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[2]   The figure was calculated by adding the number of trips of EU residents outside EU27 with the number of TCN travelling to EU27. See Annex 4, table 14, 15 and 16.

[3]   See Annex 4, table 13.

[4]   The figure was calculated on the numbers of trips made into Europe by the most important countries. See Annex 4, table 16.

[5]   See Annex 4, table 11.

[6]   This estimate is based upon data from one Member State. There are an estimated 100 million passengers who enter that Member State per annum. 2930 full-time equivalent (FTE) staff are checking passengers as they enter the territory. If it is assumed that it costs an average of 45000 euro to employ them (without equipment) the total costs are 132 million euro, equivalent to 1.32 euro per passenger entry. According to data for one other Member State, there are 16 million passengers who enter and exit that Member States. There is 1313 FTE staff who are working in the field of border checks. The average salary costs are 47900 per annum. Then the total costs are 63 million euro, equivalent to 3,90 euro per passenger entry/exit. It should however be borne in mind that the organisation and tasks of national border guard authorities differ widely between Member States and as a consequence resource implications are not comparable, nor can they be aggregated.

[7]   This estimate is consistent with that of the United Nation's Trend and the estimates of EU25 Member States given. However, there are other estimates: 2-3 million (Global Migration Perspective 2005) and 4.5 million (IOM 2000).

[8]   There are varied estimates in different national studies undertaken in the Netherlands ('large majority'), Italy (75% in 2004) and UK (31% in 2002).

It is obvious that there exists a dichotomy in this dilemma. On the one hand, the bona fide passengers should be ensured a smooth border-crossing and on the other hand, the internal security of the Schengen area should be guaranteed. These challenges will be further examined in Chapter 2. It is also important to note that compared to air and sea borders, land borders are more complex to manage in instances when individuals arrive at land border crossing points in groups in cars, busses or even trains. Cars carried onboard ferries undergo similar checks as at land border.

2.1.2. Integrated border management

Efficient, extensive and effective border control makes a significant contribution to the level of security in the Member States. The Integrated Border Management System is used in the European Union to achieve these aims. On 14 and 15 December 2006, the European Council recalled the need to improve the management of the European Union's external borders on the basis of the integrated border management strategy discussed in the Council in 2006. Management of the external borders is built up around three pillars, namely common legislation, common operations and financial solidarity.

In order to manage increasing passenger flows, it is necessary to take advantage of modern and rapidly developing new technology in an open manner. To increase the number of personnel participating in border control or to improve the functionality of border crossing points, for example by enlarging the border crossing points or by adding more border check booths and lanes, is not necessarily cost efficient and in some cases not even possible. Over the last years, the Integrated Border Management System has developed significantly. For example through common legislation, Frontex coordinated operations and financial burden sharing among Member States. This development should be systematically continued.

2.1.3. Legislation and financial solidarity

Since the entry into force of the Treaty of Amsterdam in 1999, a number of common measures have been adopted to manage the external borders of the European Union in accordance with Article 62 (1) and (2) of the EC Treaty. In particular, four Regulations dealing with different aspects of this policy have been adopted aiming at the harmonisation of the legal framework and improvement of practical co-operation:

- Council Regulation (EC) No 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (Frontex).

- The European Parliament and the Council Regulation (EC) No 562/2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).

- The European Parliament and the Council Regulation (EC) No 1931/2006 laying down rules on local border traffic at the external borders of the Member States and amending the provisions of the Schengen Convention.

- The European Parliament and the Council Regulation (EC) No 863/2007 establishing a mechanism for the creation of Rapid Border Intervention Teams

and amending Council Regulation (EC) No 2007/2004 as regards that mechanism and regulating the tasks and powers of guest officers.

There are also several other Regulations that are particularly relevant in this field, notably the European Parliament and the Council Regulation (EC) No XX/2007 on the Visa Information System (VIS) and the exchange of data between Member States on short stay-visas.

In addition, the Commission Recommendation establishing a common Practical Handbook for Border Guards was adopted on 6 November 2006. The external borders fund (EBF) was set in place on 23 May 2007, which on the basis of the principle of solidarity supports Member States with specific requirements for checks and surveillance of long or difficult stretches of external borders, and Member States confronted with special and unforeseen circumstances due to exceptional migratory pressures on their external borders. The EBF is operational already 2007 and it will apply for the financial period 2007-2013 with €1.82 billions.

2.2. Problems and other issues in the current situation

2.2.1. Illegal immigration

Even if it is likely that the majority of illegal immigrants enter Europe legally (e.g. with a short-term visa) and then fail to depart when their legal entitlement to stay expires, consistent and reliable data on the stock and inflow of illegal migrants in Europe is difficult to provide.

According to data collected by the external contractor there were up to 8 million illegal immigrants within the EU in 2006, over half of which entered the EU legally but become illegal or irregular due to exceeding their right to stay.

In 2006 in the order of 500,000 (year 2005 429 000; year 2004 396 000) illegal immigrants were apprehended in the EU27 and it is estimated that around 40% of these were removed[9]. In 2006 the EURODAC database stored 25,162 fingerprints of people who were detected crossing borders irregularly[10].

Data collected at national level indicate that more than 75% of the illegal immigrants that were apprehended on the territory of Member States in 2006 were from third countries where visas to visit the EU are required[11]. It is therefore likely that most overstayers originate from these third countries.

Illegal entry, transit and stay of TCN who are not in need of international protection, without effective countermeasures, undermine the credibility of the common European and the Member States´ immigration policy.

The costs of identifying, apprehending and returning illegal immigrants are high. Illegal immigrants are likely to be subject to exploitation including in particular by organised crime. One of the factors encouraging illegal immigration into the EU is

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[9] See Annex 4, table 3, 4 and 5.
[10] See Annex 3.
[11] See Annex 4, table 4.

the possibility of finding work. Illegal immigration is thus a widespread and continuing problem and current measures to detect and reduce its incidence are only partially effective.

Considerable efforts are underway within the EU and in particular within the Schengen area to combat illegal immigration. These are described under the status quo policy option in Section 4. Within the EU and elsewhere there are examples of initiatives with analogies to the proposed entry/exit system that have been implemented with a view to reducing illegal immigration such as the US –VISIT programme and the provision of advanced passenger information in the UK[12].

2.2.2. *Terrorism and serious crime*

Terrorism and serious crime are major problems with strong international dimensions. Organised crime is growing and though difficult to predict terrorism is likely to remain a major problem. The problems are extremely difficult to combat and generate huge human and social costs. There are serious crimes closely related to cross border movements of people: travel document and identity fraud, people smuggling and human trafficking.

Border controls play a role in combating terrorism and serious crime. The controls involve identity checks and the information is searched against various databases of known persons to be either apprehended or denied entry to the territory. These procedures can lead to refusals to enter the EU. In 2006 over 300,000 (year 2006 280 000; year 2004 397 000)[13] persons were refused entry at EU borders[14]. Most of these were from third countries where visas are required[15]. This compares with the estimated 70 million TCN entries into the EU (both visa and non visa holders); approximately 4 per thousand are refused for entry at borders. However, the majority of those refused entries are neither terrorists nor serious criminals but those without the appropriate travel documents and suspected of being prospective illegal immigrants.

Data available from the Schengen Information System (SIS) provide some indication of the scale and trends. Since 1995 more than 17 million records have been created on the SIS. The vast majority of these concern lost or stolen items, such as identity documents. Information from 2006 indicated that:

–   More than 13 million records have been created on stolen identity documents (passports, identity cards, driving licence) of which a majority concern travel documents issued by the Member States;

–   More than one million records have been created on wanted persons (894,776 wanted persons plus 312,052 aliases);

<div style="footnote">

12   See Annex 2.
13   Excluding the figures for Spain that are very high (600,000) due to refusals made outside of the EU at Spanish enclaves in North Africa.
14   See Annex 4, table 1 and 2.
15   See Annex 4, table 2.

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–   The vast majority of wanted people are TCN who should be denied entry under article 96 (e.g. people to be rejected on grounds of national security and public order and rejected asylum seekers);

–   Over 33,000 people have been placed under 'discreet surveillance'.

Specific restrictive EU measures are directed against certain persons and entities with a view to combating terrorism. They normally include groups posing a threat to public security, as well as the names of individuals belonging to such groups.

In view of the latest terrorist acts in the EU, it can be noted that the perpetrators have mainly been EU citizens or foreigners residing and living in the Member States with official permits. Usually there has been no information about these people or about their terrorist connections in the registers, for example in the SIS or national databases.

The international nature of crime and terrorism has contributed to the development of mechanisms through which border controls contribute to the detection and apprehension of criminals and terrorists. These developments are described under the status quo policy option in Section 4.

2.2.3.   *Data gap*

As stated earlier in sub-paragraphs 2.1. and 2.2., for the time being the number of overstayers is the main problem in the European Union. There is no information source or data base that would explicitly provide the exact number of illegally residing TCN in the European Union. It is precisely for this reason that it is difficult to make any reliable estimation on the matter. In other words, it is very difficult to identify those TCN who have overstayed their visa or visa free period.

The passport of every TCN should be manually stamped when she/he enters and exits the Schengen area[16]. The time a third country national has spent in the area of the Member States is calculated based on these stamps, which are however often difficult to interpret; they may be illegible or the target of counterfeiting. Exact calculation of time spent in the Schengen area on the basis of stamps in the travel documents is thus both time-consuming and difficult. In addition, there is no record of the time spent in the Schengen area for TCN. Due to these reasons, at the moment there is

• at the border crossing point no easy manageable and reliable mean of determining if a TCN has overstayed his/her right to stay,

• no consistent record of entries and exits of travellers from the Schengen area, which could help to improve border management, security and planning and

• no possibility to gather information on overstayers.

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[16]   Except for certain categories of persons such as those who present a valid residence card of a family member of a Union citizen.

Bona fide passengers

It is reasonable to assume that many travellers cross the borders more than twice per annum and that a minority of the crossings are made by frequent travellers. For example, EU and TCN business travellers, researchers and their technical staff, students, EU citizens with close family connections to third countries, TCN and EU citizens living in regions bordering the EU are all likely to make multiple border crossings per annum.

It is estimated that around 20% of border crossings of TCN applying for Schengen visas are regular travellers seeking multiple entry visas[17].

The flows have been growing and are likely to increase. Taking into account the forecasts for international travel and its development in the mid-term[18], the current infrastructure at border crossing points will have even greater difficulties in dealing with the growing numbers than today. The increasing amounts of travellers can only be dealt with through the implementation of new systems and procedures or making considerable investment in physical infrastructure and human resources.

The biggest amount of crossings of the external border occur at the airports. Land border crossing points are the next most frequently used type of border crossing. There are 1792 designated EU external border crossing points with controls (665 air borders, 871 sea borders and 246 land borders)[19].

Existing regulations require that checks are made at borders (entry and exit). The process imposes costs on bona fide passengers. These costs relate to: the time taken at borders to complete formalities; the time and financial costs of getting appropriate travel documents and visas; and the consequences of mistakes being made. These costs are generally higher for TCN requiring visas than for EU citizens, as they have to spend time and money acquiring visas and because it currently takes longer to have their travel documents checked and processed at border crossing points. There are also costs associated with granting visas. In the order of 11.5 million Schengen visas are granted per annum.

Given the very large numbers of border crossings small changes in the time taken to make border crossings are potentially very significant. However, many other factors contribute to time spent at border crossings. These include: check in times; customs checks; time spent waiting for luggage; air traffic delays; and security checks. At many border crossings, passport controls contribute just one component of delays.

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[17]

    http://register.consilium.europa.eu/servlet/driver?page=Advanced&typ=&lang=EN&fc=REGA ISEN&srm=25&md=100&cmsid=639

[18]   http://tinet.ita.doc.gov/view/f-2000-99-001/index.html.
    In 2006, the United States hosted 51 million international visitors, a 4 percent increase from 2005. The arrivals forecast for 2007-2011 predicts that by 2011, international arrivals will reach 61 million, an increase of 20 percent between 2006 and 2011. Forecasts are derived from Global Insight, Inc. econometric travel forecasting model and are based on key economic and demographic variables as well as DOC consultation on non-economic travel factors. The rates of the United States are used, because there does not exist comprehensive estimations from Europe.

[19]   See Annex 4, table 13.

Within the EU and elsewhere there are examples of initiatives with analogies to the proposed Registered Traveller Programme that have been implemented with a view to facilitating bona fide border crossings. These include both Registered Traveller Schemes for particular border crossings and Automated Border Control systems that check the identity of passengers using biometric information. Several Member States have developed pilot programmes and projects at various airports throughout the EU (for example, in the UK at Heathrow, Gatwick, and Birmingham airports; in the Netherlands at Schiphol airport; in France at Charles De Gaulle airport; in Germany at Frankfurt airport; in Portugal at Lisbon airport).[20]

This seems to be a growing trend. Yet, it might not be desirable to have different national Registered Traveller schemes that are not interoperable across EU Member States and thus common standards and guidelines might need to be considered to avoid the need for multiple registrations with each programme individually.

2.2.5.   *Economic migration*

In this Impact Assessment, economic migration has mainly been considered from the perspective of work-related legal migration. Economic migration is important to the development and competitiveness of the EU. It was estimated that in 2003 there were in the order of 16 million TCN residents in the EU[21]. Legal economic migration to the EU mainly involves: those with skills where there is demand exceeding supply and seasonal workers, largely working in the agriculture and tourist sector. Economic migration to the EU has increased. In light of demographic changes (a lower proportion of EU population will be of working age), economic migration is likely to grow.

Since the entry into force of the Treaty of Amsterdam in 1999, a number of common measures have been adopted in the areas of immigration. Despite such important steps forward in the creation of a common policy on legal migration, no common measures yet exist to admit TCN entering the EU territory for employment, even though the admission of economic migrants represents the cornerstone of any immigration policy.

The reasons for proposing an EU policy on labour migration have been explored in SEC (2005) 1680, annexed to the Policy Plan on Legal Migration, where the Commission has examined whether and for which reasons a common policy in this field would be necessary, by evaluating the following elements:

- *interrelation of national immigration policies*: at the current state of the acquis, it is acknowledged that admission of economic immigrants in a Member State can have an impact on other Member States and/or on the Community as a whole. For instance a regularisation procedure may attract illegal immigration into one Member State, from which regularised migrants could afterwards move easily to other Member States;

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[20]   See Annex 2.
[21]   See Annex 4, table 6.

- *the EU labour market and demographic change*: Eurostat projections concerning demographic ageing and its impact on the labour market indicate that there will be a fall in the EU working age population by 2011, with an estimated fall of 52 million between 2004 and 2050 (STAT/05/48). Already existing needs in the high qualifications' segment of the labour market will become more and more evident in the years to come and will have to be addressed if Europe wants to remain competitive on the global market;

- *the outcome of the public consultation on the Green Paper on managing economic migration:* some elements clearly emerged, i.e. the need for EU common rules regulating admission for employment, including temporary work, coupled with the request to ensure a secure legal position to all immigrants in employment.

The Commission Communication "Towards a Common Immigration Policy" concluded that a renewed commitment to develop a common immigration policy is required to enable the Union to turn immigration to its advantage for economic growth and competitiveness. This new commitment would: build on an assessment of the situation of migrants in the Member States, including the current and future needs and skills gaps; define a plan leading to a common understanding of the kind of immigration Europe needs and the accompanying measures required to ensure proper integration; set out common measures on how to effectively tackle illegal immigration, addressing both new arrivals and illegal migrants already present in the EU; ensure genuine and efficient coordination and information between Member States as regards major decisions in the immigration field, particularly regularisation measures and measures to tackle illegal immigration; ensure policy consistency: all policy fields need to contribute and work in complementing each other to face common challenges; both national and EU levels and different sectorial policies; and continue the process of linking the EU immigration policy with the external agenda, including development.[22]

In the EU, there currently exist 27 national systems for the management of economic migration. These national systems are very diverse varying from databases at national level to micro management at local level. Thus, there is a lack of management systems at EU level and there are no EU wide real-time figures on the admission and return of third country workers for the whole EU area. The effective management of the economic migration is not possible without comprehensive and comparable data. In this Impact Assessment, impact of the entry/exit system and the Registered Traveller Programme in improving the management of economic migration have mainly been considered from the perspective of work-related legal economic migration.

Several EU Member States have strategies to attract workers with the desired skill levels. For example, in 2002 Germany adopted a major reform of their immigration laws to facilitate the entry of highly skilled workers. In 2005 the UK Government presented its five year strategy for immigration and asylum, which indicated an emphasis on highly skilled migrants.

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[22]   COM(2007) 780, 5.12.2007.

Steps are being taken to harmonise procedures and set common standards for admitting workers from outside the EU. In the line with 2005 Policy Plan on legal migration[23], the Commission adopted two legislative proposals on 23 October 2007 in the area of economic migration. The first proposal sets out the conditions of entry and residence for the admission of highly qualified migrants to the EU, creating the EU Blue Card. The second proposal is a Framework Directive that establishes a single application procedure for a single residence and work permit and a common set of rights for third-country workers legally residing in a Member State.[24] The policy plan foresees further proposals in the area of economic migration for 2008, namely Directives on the conditions of entry and residence of seasonal workers', of intra-corporate transfers (ICT) and remunerated trainees. In addition to the direct economic contribution, labour migration to the EU generates and strengthens international links. Indeed, economic migration to the EU is an important factor for third countries. Those TCN working in the EU send home remittances that can represent a significant proportion of the gross domestic product (GDP) of the countries of origin. At the same time outward migration can also be a source of 'brain drain' and 'loss' of the public investments made in human capital.

To meet the key challenge of maintaining a good match between the requirements of the EU labour markets and economic migration is attained, efficient management arrangements need to be put in place. This in turn would maximise the reliability and public confidence in the system of control. Border controls have an important role to play in this.

2.2.6.   *Subsidiarity*

Under Article 62(2)(a) of the Treaty establishing the European Community, the Community has the power to adopt measures relating to the crossing of the external borders of the Member States.

The need for intervention at the European level is clear. No Member State is able to combat alone against illegal immigration including overstayers. A person may enter the Schengen area at a border crossing point where a centralised register of entries/exits is used, but exit through a border crossing point where no such system is used. TCN that enter the Schengen area are able to travel freely within it. In an area without internal borders, action against illegal immigration needs to be undertaken on a common basis. This is the case not only at the common borders but also with regard to action to reduce pull factors.

Any measures relating to border control would have to apply to the Schengen area without internal border controls which currently includes all EU15 member states except UK and Ireland and two other European countries (Norway and Iceland). Nine new Member States are in the process of becoming full Schengen members by December 2007 (March 2008 for air borders). Schengen countries are committed to maintaining common EU borders and common standards for border controls. All the options are also relevant to non Schengen Member States as their citizens could be affected by their implementation when travelling elsewhere in Europe. Therefore, the

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[23]   COM(2005) 699, 21.12.2005.
[24]   COM(2007) 637, 23.10.2007 and COM(2007) 638, 23.10.2007.

objectives cannot be sufficiently achieved by the Member States acting alone but better achieved at EU level.

1. **POLITICAL ORIENTATIONS AND OBJECTIVES OF THE ENTRY/EXIT SYSTEM AND MEASURES FOR FACILITATE CROSS-BORDER FLOWS (AUTOMATED BORDER CONTROL AND REGISTERED TRAVELLER PROGRAMME)**

The essential rationale of the introduction of an entry/exit system is that it would enable the maintenance of a record of TCN entering and exiting the EU. However, the introduction of such a system might increase the time necessary for TCN to go through EU external border controls. There could be, therefore, a basis for reducing the impact of new border control measures by introducing a cross border facilitation scheme which in a form of automated border crossing systems would apply to those assessed to be eligible. The implementation of such measures to facilitate cross-border flows would be voluntary and could have the extra benefits of enabling border guards to focus their resources on risky categories of persons.

At first glance the set of objectives may look conflicting with the need to deal with an ever increasing stream of travellers. Any additional means of entry-exit control invariably will lead to longer processing time at the point of border crossing and this in turn will lead to longer waiting queues overall. As it will be shown in the possible scenarios, the conflict can to some extent be resolved by leveraging advanced biometrics and technology for automating the border crossing process for different types of travellers.

The aim of the Impact Assessment is both to analyse the means to achieve defined policy objectives and to examine different implementation options for both the entry/exit system and for the Registered Traveller Programme. The objectives, mainly derived from various documents (The Policy Plan on legal Migration, The Communication on Policy Priorities in the fight against illegal immigration, The Action Plan on Combating terrorism, the Impact Assessment of the Visa Information System, Council Conclusions and the Commission Communication regarding EU-US Partnership) referring to the systems, had an essential part in making system options deal more with different traveller groups than with different systems.

3.1.   Political orientations

The idea of creating an automated system registering the entry and exit of third country nationals at EU level was first raised by Germany in a letter addressed to the Commission and to the UK Presidency in September 2005.

After that the creation of an entry/exit system has been discussed as a possible policy option in several EU documents:

- The Commission included the "creation of an entry-exit system and the introduction of a border-crossing facilitation scheme for frequent crossers" among the possible long-term developments in its Communication on improved

effectiveness, enhanced interoperability and synergies among European databases in the area of Justice and Home Affairs[25].

- The Policy Plan on Legal Migration[26] considered an automated entry exit system as a component of a possible future EU scheme for the admission of seasonal workers. It indicated that such a system would help Member States to verify overstayers and thus improve the management of economic migration.

- The Communication on Policy Priorities in the fight against illegal immigration of third-country nationals[27] noted that the Community rules do not provide for automated registration of TCN on entry to/exit from the EU territory. The creation of an automated entry/exit system would therefore facilitate the management of illegal migration as checks on the immigration and residence status of TCN entering and exiting EU territory would be undertaken.

- In the context of the EU Action Plan on Combating Terrorism[28] an automated entry exit system was included amongst the border control measures that could be taken to prevent terrorism.

- The question of setting up a (biometric) automated entry/exit system at the external borders of the EU was addressed also in the framework for the Impact Assessment for the setting up of a Visa Information System (VIS)[29].

In relation to the setting up of a Registered Traveller programme, this issue has been raised in the Communication as mentioned above as well as in the framework of the relations with the United States:

- The Commission Communication "A Stronger EU-US Partnership and a more open market for the 21st century"[30] suggested examining the possibility of a travel initiative for a special status of 'trusted persons' to facilitate the movement of international travellers and ensure compliance with security procedures at the same time.

On 14 and 15 December 2006, the European Council emphasized that existing and new technological possibilities will be fully utilised to enhance border control and to allow persons to be identified reliably; the Commission was invited to report before the end of 2007 on how to improve access control, including on the feasibility of establishing a generalised and automated entry-exit system for this purpose.

3.2.   Objectives of the entry/exit system

The general objectives are, in order of priority:

- To reduce illegal immigration (especially overstayers);

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25   COM(2005) 597, 24.11.2005.
26   COM(2005) 669, 21.12.2005
27   COM(2006) 402, 19.6.2006.
28   Council Document 5771, 27.1.2006.
29   SEC(2004) 1628, 28.12.2004.
30   COM(2005) 196, 18.5.2005.

- To contribute to the fight against terrorism and serious crime;

- To improve the effective management of economic migration (for example, seasonal workers).

The specific objectives are

- To generate information which would help to apprehend irregular and illegal immigrants especially overstayers and to deter illegal immigration;

- To generate information that would prevent terrorism and serious criminal activity and that would lead to (or help ensure) the apprehension of terrorist and criminal suspects;

- To enable border control resources to better focus on checking riskier groups of travellers and tackle illicit movements of people in order to maximise the reliability and public confidence in the system of control;

The operational objectives are:

- To identify overstayers;

- To facilitate the sanctioning of overstayers;

- To identify the cross border movements of potentially dangerous third country nationals;

- To identify the compliance of seasonal and other categories of third country national migrants to the EU to their conditions of migration.

3.3. **Objectives of the measures for facilitate cross-border flows**

The general objectives are, in order of priority:

- To facilitate the crossing of EU external borders for bona fide travellers, while ensuring overall coherence of EU border policy;

- To improve the effective management of economic migration (for example, seasonal workers).

The specific objective is:

- To enable border control resources to better focus on checking riskier groups of travellers and tackle illicit movements of people in order to maximise the reliability and public confidence in the system of control.

The operational objectives are:

- To decrease the time and costs of border crossings to (frequent) bona fide travellers, both EU citizens and third country nationals;

- To free up border control resources from the checking legitimate cross border movements.

4.   POLICY OPTIONS

This Section describes each of the policy options and sub policy options in turn. The most relevant aspects of each policy option and sub option that could radically influence its feasibility, costs and the effects it might have relative to the policy objectives are elaborated.

Other policy options introducing various obligations on migrants to confirm return to the country of origin, and possibly combined with a bond system, were considered but eliminated. In the policy option "obligation on TCN to confirm their return to country of origin" TCN requiring visas to visit the EU would be required to provide upon return to the country of origin a proof of having respected the duration of stay as a condition to re-enter the EU. Such travellers will have to provide biometric information which will be stored in the VIS. Their identities will be checked on entry to and exit from the EU, passports will be stamped but the time and place of entry and exit will not be recorded. In order to verify that a TCN holding a visa had left the EU, this policy option foresees they would have to return to the visa consulate in their country of origin and provide biometric information to prove their identity and verify that they had left the EU in due time. Thus the sub policy option would provide information on exits made within the provisions of visas and information on the identity of 'overstayers' who had not verified that they had left the EU in due time.

This policy option would affect all TCN holding a visa with the possible exception of those holding multiple-entry visas. Around 11.5 million (Schengen) visas are granted each year. It is reasonable to assume that well over 5 million 'returns' to a visa consulate would be required per annum.

In the policy option "a system of bonds for TCN requiring visas to visit the EU" TCN requiring visas would be required to provide a bond (certain sum of money) to EU consular authorities if they have been granted a visa. This bond would be reimbursed to the TCN providing that they conformed to the requirements of their visa or right to stay. These requirements would normally include providing evidence that they have left the EU. Thus the policy option would provide information on exits made within the provisions of visas and information on the identity of overstayers who had not reclaimed their bonds in due time.

The policy option would not require investment in biometric recognition systems and thus could be operational in the short term. However, this option would need data generated by a central register. The data could be used to verify that TCN holding a visa had in fact left the EU and should therefore receive back the bonds paid by them or on their behalf.

These options were too wide and complex - both in the political sense and with regard to the practical implementation - to be carried out in the medium-term. For example, fast and sufficient transfer of information on overstayers would have been difficult to arrange, and from the viewpoint of a customer the options can be

regarded unreasonable. Traveller should first go to a consulate to register or pay a bond and only after that s/he could enter the Schengen territory. This could mean hundreds of kilometres of travel within the country of origin and also additional costs (time and money) for the traveller. Moreover, these options go well beyond border control measures and are rather migration management tools in a wide sense. They might therefore better be reflected on in another, larger context as a part of wider policy considerations for the management of economic migration and international development. However, it should be stressed that their political feasibility would above all need to be evaluated from the perspective of how they would fit into the overall EU policy of encouraging people-to-people exchange, whilst ensuring a high level of security, having regard to the clear deterrent effect on travel that any options of this nature would have.

The possibility of extending the entry/exit system to EU nationals was also considered because of the possible benefits with respect to identifying histories of cross border movements of potentially dangerous persons from within the EU. However, questions as to the compatibility of any such system with Community rules on free movement were considered to outweigh the potential benefits. In addition, several technical options for the entry/exit system for TCN were considered but the assessment has focussed on a system that makes use of the developments that are taking place in the status quo and in particular the VIS.

Also the use of alternative biometrics particularly iris recognition in the harmonised Registered Traveller Programme for EU citizens was briefly evaluated but this was considered likely to be very expensive, requiring investment over and above biometric equipment that would rely on current plans for e-passport development and the VIS, and involving longer enrolment times, though greater accuracy could potentially be achieved.

A digital photograph and fingerprints have been established as biometric identifiers currently in use in EU large-scale IT systems - also in the VIS. These biometric identifiers are used in passports, visas and residence permits. The equipment have already been partly acquired at the consulates and at the border crossing points, and these investments will continue. If other biometric identifiers, such as iris, were used in the entry/exit system and Registered Traveller Programme, the consulates and border crossing points would need more equipment and no current information systems, such as the VIS and the SIS, could be efficiently used. Also, including iris into the biometric identifiers would require further training and place greater demands on the personnel[31].

The Biometric Matching System (BMS) is a system that will store the minimum amount of data needed to perform identification and verification requests by the VIS on behalf of the Member States. Initially, the BMS will only provide services to the VIS. From an architectural and structural point of view it can easily be expanded to provide services to additional systems, such as the SIS II, EURODAC, and a potential entry/exit system and automated border crossing systems in connection with a Registered Traveller Programme.

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[31] See also Study on Automated Biometric Border Crossing Systems for Registered Passengers at European Airports carried out by Frontex, p. 68.

Identifying synergies and making effective use of EU systems such as the VIS, the SIS II and the BMS in order to leverage the information they contain can greatly facilitate the implementation of an entry/exit system and Registered Traveller Programmes. There are definitely potential savings from a shared approach to improving border control processes across the EU.

It should be remembered when reading the Impact Assessment that any of the sub-options can be implemented separately and individually. The already existing systems in the Member States exemplify this. For example, the entry/exit system only for TCN requiring a visa is possible because the implementation is relatively simple and requires minimal investments. The biometric identifiers of the TCN will be stored into the VIS database when issuing visas at the consulates, and the Commission is preparing a legislative proposal which would make a search compulsory in the VIS system when the traveller is entering the Schengen area.

It is also quite possible to implement the entry/exit system for TCN not requiring a visa. In the future, if necessary, it will be possible with the help of the VIS to identify the TCN requiring a visa also within the Schengen area. As to the TCN not requiring a visa this will not be possible, because without the entry/exit system their biometric identifiers will not be captured and stored in any database. Consequently in this option entries and exits of the TCN not requiring a visa would be registered, whereas the entries and exits of TCN requiring a visa would not. Yet, it would be possible to verify the identity of all TCN residing in the Schengen area by using biometric identifiers.

Respectively, any of the Registered Traveller Programme sub-options can be realized with justification as an own entity.

However, the entry/exit system and Registered Traveller Programme could be combined as both have impacts on the border checks carried out at the external borders, and the two systems clearly share a common ground as to the practical border checks and management of resources. The entry/exit system and the Registered Traveller Programme can be seen as the systems which complement each other; the entry/exit system will entail more careful and time-consuming border checks especially for those TCN not requiring a visa, whereas the Registered Traveller Programme will enable smoother border checks for bona fide travellers. Roughly estimated these systems will cancel out each others´ effects as to the management of border check personnel and the average time required for border crossings. Of course, in practise there may be huge differences among different border crossing points.

One example of the costs and the required time (incl. legislation) to develop a large-scale information system is the VIS. The development of the VIS was initiated in 2004, and the system should start operations in 2009. The estimated costs of the central system in 2004–2009 will be approximately 70 million euro (including the development of the Biometric Matching System, network, quality assurance contractor costs, etc.). The aforementioned figure neither includes the costs incurred by Member States nor the costs for maintaining the system. Nevertheless, the creation of an entry/exit system and Registered Traveller Programme should not incur comparable costs since the technical design of both should allow for maximum synergies with the VIS.

At this stage, it is worth mentioning that a potential entry/exit system should be based on a similar technical platform as the VIS and also could cover the Registered Traveller Programme. As concerns the specific issue of storing the entry/exit data for visa holders, the VIS database could be expanded to record the entries and exits of TCN requiring a visa; this data could be included in the entry/exit system and Registered Traveller Programme database.

In any case, only one new database would be needed in the future. The Commission will present a separate Commission Staff Working Paper on technical options of the entry/exit system and the Registered Traveller Programme in the beginning of 2008.

4.1. Option 1: Status Quo

The status quo policy option needs to reflect a large number of important developments that are underway and a substantial improvement in infrastructure for managing cross border flows are anticipated to occur. However, these improvements are not yet in place, but expected to be fully implemented over the next couple of years.

These measures are designed to contribute to policy objectives that are in place, or that will be put in place, irrespective of the adoption of proposals for the entry/exit system and the Registered Traveller Programme. The precise nature of these measures, particularly in so far as they relate to the checks that will be made on different types of passengers crossing EU borders, are critical to the assessment of the policy options.

The most fundamental aspects of the status quo pertinent to this Impact Assessment are:

- In accordance with Article 7 of the Schengen Borders Code, all persons crossing the external border shall be subject to a "minimum check", both at entry and exit, consisting of the examination of the travel document so as to verify the identity of the individual. This is the rule for EU citizens and other persons enjoying the Community right of free movement. Third-country nationals must be subject, at entry, to a "thorough check", which implies a check to determine their purpose of stay, whether they possess sufficient means of subsistence etc, as well as a search in the Schengen Information System and in national databases to verify that they are not a threat to public policy, internal security, public health and the international relations of the Schengen States. At exit, checks may be less thorough, i.e. be limited to a verification of the travel document, but they may also entail checks in the SIS and national database(s); a check to see, if the person has overstayed and a verification that the person holds a valid visa, if this is required. Article 8 of the Schengen Borders Code states that border checks may be relaxed as result of exceptional and unforeseen circumstances leading to excessive waiting time. When border checks are relaxed, entry checks takes priority over exit checks.

- The VIS will be in place by 2009[32]. Given a minimum two year worldwide roll out period at consular posts all TCN requiring visas to travel to the Schengen area will have supplied biometric details when acquiring a visa as of 2011. These biometric and other data will be held in the central VIS database. When TCN holding a visa cross the EU external borders on entry,[33] and optionally on exit also, they will have to provide their biometric information for verification. Data will be compared with the visa record held in the VIS central data base so that the identity of the traveller can be automatically validated.

- The equipment required to carry out the biometric checks for TCN holding a visa will be available at all EU border crossing points. Mobile devices will be required as part of the VIS implementation, in order to perform biometric checks. These mobile devices are to be used for carrying out specific border checks, such as in trains and buses at the land border.

- The checks will be undertaken with a very high degree of reliability (in terms of the identifications being correct) and at very high speed. It is estimated that the search with the fingerprints will take approximately 15-20 seconds and maximum of 5% of checks may be unreliable due to, for example, injuries.

- SIS and the second generation system that will replace it (SIS II), and national databases are systematically checked as part of the visa application procedure and of the border checks at the external borders when TCN cross the border.

The following measures (legislative instruments, funding, recommendations and general measures) would be maintained in the status quo option:

- Directive 2002/90/EC and Framework Decision 2002/946/JHA. This Directive and Framework Decision define the facilitation of unauthorised entry, transit and residence and sets a penal framework to prevent these phenomena. The Directive stipulates that Member States are to adopt sanctions on "any person who, for financial gain, intentionally assists a person who is not a national of a Member State, to reside within the territory of a Member State in breach of the laws of the State concerned on the residence of aliens". However, the type of sanctions is not specified, i.e. sanctions are not harmonised[34].

- Article 1 of the Framework Decision 2002/629 JHA on combating trafficking in human beings. This Framework Decision provides that Member States are to criminalise any form of recruitment, transportation, transfer or harbouring and any other treatment of a person for the purposes of labour exploitation. Article 3 clarifies that these offences have associated penalties.

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[32] This is an assumption according to the current planning.

[33] The Commission has presented a proposal for amending the Schengen Borders Code so that the VIS will be systematically used at the external borders during entry checks. After the transitional period search of the VIS will be mandatory by using the visa sticker number in combination with verification of fingerprints of the visa holder.

[34] In accordance with Article 3 "Each Member State shall take the measures necessary to ensure that the infringements referred to in Articles 1 and 2 are subject to effective, proportionate and dissuasive sanctions".

- The Commission has elaborated a common policy on the return of illegally staying TCN in the 2002 Return Action Programme. This was followed by a directive on the assistance in case of transit for the purpose of removal by air[35], and a directive on the organisation of joint flights for the removals[36]. The Commission has also proposed a directive[37] on common standards and procedures in Member States for returning illegally staying third country nationals. The proposal, which is currently being discussed in the European Parliament and the Council, provides for common rules concerning returns, use of coercive measures, temporary custody and re-entry.

- Proposal for a Directive providing for sanctions against employers of illegal immigrants: One of the factors encouraging illegal immigration into the EU is the possibility of finding work. This proposal aims to reduce that pull factor by targeting the employment of third-country nationals who are illegally staying in the EU.[38]

- In 2007 the Framework Programme Solidarity and Management of Migration Flows for the period 2007-2013 was launched. This Framework Programme encompasses four new funds related to: (1) refugees; (2) external borders; (3) the integration of third-country nationals; and (4) return.

- Legislation on e-passports: All new passports issued since June 2006 contain biometrics (i.e. a digital photo), and all new EU passports and travel documents issued from autumn 2009 at the latest will include two biometric identifiers (i.e. a digital photo and fingerprints placed on the contact less chip)[39]. Given that passports are valid for up to ten years, all European citizens holding passports will have both biometrics in their passport by 2019 at the latest. The implementation of electronic travel documents allows for stronger document and identity verification, as well as automating procedures that are currently manual such as the introduction of automated border control systems at EU external border crossings for EU citizens. Technological advances have made automation of border control processes more feasible and less expensive. Automation in this context can also bring added value to the whole system by enabling a more efficient use of border control resources.

- Member States are transposing the Council Directive (EC) No 71/2005 on a specific procedure for admitting TCN for the purposes of scientific research, which will facilitate and speed up their entry and residence permit procedures. TCN researchers would have the possibility to work in other Member States for a period of up to three months on the basis of the residence permit delivered by another Member State; no work permit would be needed any more.

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[35] Council Directive 110, 23.11.2003.
[36] Council Directive 573, 29.4.2004.
[37] COM(2005) 391, 1.9.2005.
[38] COM(2007) 249.
[39] Council Regulation 2252, 13.12.2004.

The following measures included in the Council Conclusions of 14 and 15 December 2006 are in preparation and it is assumed that they will be put in place under the status quo policy option:

- Improved management of the EU external borders via the continuous implementation of the integrated border management strategy adopted by the Council in 2006.

- Improved coordination and cooperation between countries of origin and countries of transit.

- Moves towards common visa offices that may increase efficiencies in the visa issuing process.

4.2. Option 2: Entry/exit System

This policy option would involve the recording of the time and place of entry and exit of TCN crossing the EU external border. Improved information would be generated on the cross border flows of TCN. Such information could, for example, be used operationally to detect and or review the movements of overstayers. The data would also be useful in planning the use of border control resources and in migration management.

As stated earlier, the question of setting up an automated entry/exit system at the external borders of the EU was addressed in the framework for the Impact Assessment for the setting up the VIS. In that context, the view was taken that the entry/exit system would have been too costly and disproportionate[40] based on the status quo at the time. However, the technical feasibility of an entry/exit system has in the meantime improved due the development of the VIS and it is therefore timely to reassess the option more thoroughly.

There would be significant differences in the implications for applying an entry/exit system only to TCN requiring a visa and other TCN to enter the EU. In particular the latter group of passengers would need to be enrolled biometrically while the former are enrolled already under the VIS. Hence two sub options have been defined: one relating to TCN requiring a visa and one related to those not submitted to the visa obligation wishing to visit the EU.

Based on the Schengen Borders Code, as a general rule, persons travelling in vehicles may remain inside them during checks. However, if circumstances so require, persons may be requested to step out of their vehicles. Therefore one of the specificities of land borders and ferry traffic at sea ports concern the fact that it should be possible to perform border checks using devices that allow border guards to identify/verify travellers, when they are in a car or a bus. Concerning trains, the Schengen Borders Code specifies that border checks are carried out either on the platform in the first station of arrival or departure on the territory of a Member State; or on-board the train, during transit.

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[40]   SEC(2004) 1628, 28.12.2004.

The minimum set of information that is required to describe an entry/exit event, suitable for storage in a database, contain: Border crossing point of entry and exit; date and time of event; travel document(s) type, number and issuing country; traveller's personal details extracted directly from the travel credential; further details depending on the specific border type, traveller category and means of travel. The entry/exit system that would be established should include the following solution components: Data store for entry and exit data, service to create an entry record, service to create an exit record, service to track and calculate the time spent in the area, service to retrieve overstayer information, service to transmit alert information, service allowing updates to length of stay data and administration service (i.e. an automated housekeeping procedure which cleans up aged records according to the retention times).

The essential components of the entry/exit system are:

- There would be a system for recording the point and date of entry and of exit of TCN travellers at all EU external border (Schengen) crossing points. It is assumed that the information would be held in a database for an agreed retention period.

- Verification would be carried out at the external borders in accordance with the VIS Regulation and the Schengen Borders Code.

- The definition of who is identified as an overstayer, who is exempted under which circumstances and what might constitute an appropriate sanction should preferably be consistent at EU level. The definitions and sanctions would not necessarily be harmonised but there should not be marked variations between countries.

- The system would identify and provide information to the responsible authorities of those who had entered the EU but (apparently) not left before the expiry of their right to stay.

- The system would include the facility to amend the date of the exit deadline in the light of the actual date of entry.

- The system would take account of TCN being forced to extend their stay in the EU (e.g. should a national visa be granted due to flight cancellation, illness or other humanitarian reasons), or if a new entitlement to stay such as a long-term residence permit is issued.

With the help of information provided by an entry/exit system, it would be possible to impose a sanction on TCN who has not complied with the existing rules. However, sanctions will not be examined in this Impact Assessment and the feasibility of introducing such sanctions at European level will not form part of the Communication. Dealing with the sanctions and potential harmonisation of the sanctions would require a separate initiative where the sanctions should be reviewed within the context of an extensive and comprehensive migration policy, not only from the perspective of a border check or of the entry/exit system.

Within their national legislation, the Member States have an opportunity to issue sanctions on persons who have exceeded their legal time of residence in the

Schengen area. The Member States have made use of this option and issued sanctions, including fines.

Various issues and measures may and will function as a sanction. Member States are responsible for issuing visas and the visa procedures belong under their competence. The visa administration officers could exploit the information on overstayers when handling the new visa application form of a previous overstayer. In the future, this information could be available in the entry/exit system.

If a TCN is found to be illegally staying within the area of the EU, the proposal for a Directive on common standards and procedures in Member States for returning illegally staying third-country nationals[41], currently under discussion in the Council and the European Parliament, foresees the introduction of "a re-entry ban", which prevents a re-entry of an illegally staying TCN into the territory of all the Member States. The re-entry ban would accompany removal orders for illegally staying TCN. The length of the re-entry ban will be determined with due consideration to all relevant circumstances of each case. Normally, the re-entry ban should not exceed 5 years. It is the responsibility of a Member State to remove an illegally staying TCN from the area of the EU as soon as possible.

The Directive 2001/40/EC on mutual recognition of decisions on the expulsion of third-country nationals in combination with Council Decision 2004/191/EC setting out the criteria and practical arrangements for the compensation of the financial imbalances provides for a legal framework for mutual recognition of expulsion decisions. See also status quo (4.1.)

It should be noted that a coherent and proportionate approach at EU level to sanctions could extend the impact of the entry/exit system, reinforcing the deterrent to overstay while ensuring that sanctions could be imposed in practice. In the long term a coherent approach would provide the ground for adequate and similar treatment of illegally staying TCN, regardless of the Member State which carries out the sanction. Mere awareness of the existence of a sanction can be considered as a threat strong enough for a person who has intentions to overstay in the Schengen area. Therefore, it can be presumed that the sanctions could significantly decrease the amount of overstayers.

In further consideration of this issue there are also a number of risks that would need to be taken into account. Due to a system error a sanction could be imposed on a person to whom the sanction should not be imposed. Therefore, a person has to have the right to appeal against the sanction and prior to imposing any sanction, it should be carefully examined and ensured that the person really is an overstayer. Another risk is that some third countries may interpret the sanction as discriminating to their citizens and aim to apply a similar kind of system in their own country without the real possibility of ensuring that the sanction is justified (= that it really is possible to verify the time resided in the country). Yet another risk is the extension of the duration of overstaying, since the overstayers already are well aware of the fact that there will be a sanction imposed on them. Sanctions might also entice the overstayers

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[41]   COM(2005) 391, 1.9.2005.

to use illegal routes and/or means in order to leave the EU. An appropriate degree of proportionality would need to be found to limit any such effects.

The entry/exit system should be based on the same technology as the VIS system. In practice the border check procedure at the border crossing point will remain almost the same, therefore there will most likely not be a need for extensive training or other demands on border guards when using the entry/exit system. Once the VIS is in place, the border guards will already have enough experience in capturing and storing fingerprints, so there should be no further requirements from this perspective, either. The only major change would probably be related to the need for enrolling and storing fingerprints at the border crossing points as regards the TCN not requiring a visa.

It is worth noting that when registering entries and exits at the external borders, the TCN to be registered should not be categorised on the basis of the purpose for entry, but the registering should take place by following the same principles on every traveller. Registering should be part of the border check process and one important aim of it should be to monitor the compliance with the duration of stay in the EU. However, various authorities may, according to an agreed legal framework and when necessary, access and use the information on the different target groups that is available in the database.

Sub Option 2a: Entry/exit for TCN requiring visas

In this sub option the entry/exit system would apply to TCN holding a visa. Visas confer only limited rights to stay and work in the EU and hence TCN holding a visa could become overstayers. In terms of scope only holders of a short-term Schengen visa should be covered (excluding therefore holders of local border permits, holders of national long stay visas as they are not covered by the VIS, and holders of residence permits).

Since biometric identifiers have been captured already when issuing a visa, no specific enrolment would be needed. The biometric identifiers of the TCN requiring a visa could be used as such in the entry/exit system, exploiting the already existing VIS system. No increases in visa fees would occur.

The Commission would be responsible for acquisition and maintenance of the central database which for this category could be the central system of the VIS or a separate system. Member States would be responsible for arranging the required connections and equipment (including the fingerprint readers etc.) to all external border crossing points. In relation to the VIS, the required actions and investments are in practice already on the way both by the Commission and by the Member States. Furthermore, the Commission is responsible for the necessary amendments of the current legislation such as the VIS Regulation and the Schengen Borders Code.

Sub Option 2b: Entry/exit for TCN not requiring visas

In this sub option the entry/exit system would apply to TCN not requiring visas. TCN not requiring visas are subject to limited rights to reside and work in the EU and could hence become overstayers. If biometric verification is used at the borders, TCN not requiring visas would have to be enrolled at the point of entry to the EU or,

for example, at Member State consulates and would provide biometric information equivalent to that provided by TCN holding a visa. This would ensure that the recording of their entry and exit information could be verified in the same manner as TCN holding a visa. No charge would be made for enrolment as this enrolment would be a condition of entry to the EU.

If biometrics would not be used in the entry/exit system, the machine readable zone of the passport may be used to save a traveller´s entry/exit information into the database. Queries concerning TCN are already being made in the SIS and in the national data bases at the time of the entry. Therefore, recording entry/exit time and place data could be integrated into these checks. However, it is clear that much improved reliability on a traveller´s identity can be achieved with the use of biometrics. This would be beneficial when comparing the identity of a person entering and exiting the Schengen area. This, in turn, has an impact on several facts, such as reliability of information, possibility of a sanction etc. To register entries and exits of TCN without biometric identifiers is faster and requires less investment, but it is also less reliable.

With third countries starting to issue passports with biometric identifiers, it could be possible to begin saving data of biometric identifiers of the passports of the TCN both into the entry/exit system and into a voluntary Registered Traveller Programme. Naturally, this would require a permission from the third country in question to deploy the biometric identifiers as well as the cryptographic key with which to read and "open" the biometric identifiers. At the moment also a traveller´s permission is required when re-saving the biometric identifiers contained in a national passport, for example, in a Registered Traveller Programme.

The Commission would be responsible for acquisition and maintenance of the central database, as there would be a need for a separate database. This same central database could be used also for the Registered Traveller Programme (options 3a, 3b, 3c) and for sub option 2a. Member States would be responsible for arranging the required connections and equipment (including the fingerprint readers) to all external border crossing points. Due to the roll-out of the VIS the relevant investments by Member States as concerns border crossing points are already on track. Additional investments may be needed for the purpose of enrolment and storage of fingerprints of this category. Furthermore, the Commission would be responsible for the necessary amendments of the current legislation such as the VIS Regulation and the Schengen Borders Code.

Key differences with the Status Quo of Policy Option 2

The key differences with the status quo are: there would be a systematic register and recording of the time and point of entry/exit of TCN; there would be an increased probability of being sanctioned for overstaying, including within the Schengen area for non visa holders, if biometrics are used; and improved information would be generated on the cross border flows of TCN.

4.3. Option 3: Measures for facilitating cross border flows

This policy option could take several forms, and be applied to different categories and apply different eligibility criteria. The aim of the policy option is both to shorten

the existing waiting time and mitigate the effect of the entry/exit system on the border crossing times at the external border. Three sub policy options have been chosen so that the Impact Assessment process can assess the implications of the main differences that could apply. The sub policy option of a Registered Traveller Programme for TCN would be, in part, a response to the additional constraints and implications for cross border travel that the entry/exit system could impose. The assessment of the two sub policy options relating to EU citizens illustrates the differences in approach between establishing a single EU wide system and establishing minimum standards for the development of a number of systems tailored to the needs of particular border crossings and groups of EU travellers (e.g. both Registered Traveller Schemes and Automated Border Control). Technically, the same Automated Border Control facilities could be used by TCN participating in a Registered Traveller Programme and by EU citizens.

The essential components of this policy option that have been considered are:

- Travellers, potentially including both EU citizens without e-passport and TCN, would be able to register for the programme on a voluntary basis.

- Criteria and administrative procedures would be put in place to enrol a TCN applicant. EU citizens would be automatically included and would only need to enrol if they do not hold an e-passport and choose to participate in a Registered Traveller Schemes (only option 3c).

- Applicants would provide biometric details[42]. The biometrics taken could be similar to those that will be required for e-passports (i.e. two fingerprints and a digitised facial image) or ten flat fingerprints as recorded on the VIS[43].

- The biometric information would be held on a special token or on their e- passport or on a separate database identifying them as a member of a Registered Traveller Programme.

- Separate channels would be put in place at EU external border crossing points with automated lanes for those eligible to use them.

- TCNs entries and exits would automatically be recorded by the system. The movements of EU citizens would not be recorded.

- For Automated Border Control e-passports could be used to verify EU citizens' identity and perform random checks within defined limits.

Sub option 3a: A Registered Traveller Programme available to TCN

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[42] In accordance with the Study on Automated Biometric Border Crossing Systems for Registered Passengers at European Airports made by Frontex: "Although biometrics is an important part of the whole concept and many questions were raised before such border crossing systems came to practise, it turns out that biometrics is the least problematic component at the end". See also Facilitation of Aviation Security: Feasibility study of "Registered Passenger" Concept.

[43] The US –Visit experience of enrolling two fingerprints and the facial image at the borders shows that less than two minutes are necessary.

A separate sub option for TCN was assessed, because border control procedures for this group take more time compared to EU citizens, as TCN must be subject to thorough checks at entry.

In this sub option, TCN wishing to travel to the EU would be able to apply to become members of a Registered Traveller Programme. Awarding the status of Registered Traveller and providing for automated checks for those persons will require that the verification of certain entry conditions at the border is waived (purpose of stay, means of subsistence, and absence of threat to public order). The criteria for awarding such a status should as a minimum include a solid travel history (no previous overstays; data to this effect can be retrieved from the entry/exit system), no threat to public order, proof of sufficient means of subsistence, and holding a biometric passport.

TCN granted multiple-entry visas could be granted Registered Traveller Status automatically. Vetting, which could take place at visa consulates or, for travellers not requiring visas, at the point of entry to the EU, would need to be periodically updated. Searches would be made of relevant databases, national as well as European (e.g. SIS II). Biometric data captured could be the same as for the VIS. Some border crossing points could introduce separate channels and, maybe, additional facilities such as parking places for registered travellers, particularly those where delays to TCN are severe. A fee could be charged for programme participants. However, the cost savings gained through reductions in the supervision of the separate channels by border guards could provide a case for not making a charge.

It is difficult to estimate the numbers of TCN that would chose to apply and be accepted on such a Registered Traveller Programme. Demand would depend upon the fees charged, the stringency of vetting, the time taken to process application and the difficulties faced in otherwise crossing borders. Eligibility criteria could limit the numbers deemed suitable. For example, the Programme could be limited to business travellers with strong verifiable connections to businesses in the EU. There are in the order of 11.5 million Schengen visas issued each year. It is estimated that around 20% of applications are for multiple-entry visas, which would entail around 2.3 million TCN among visa holders being awarded Registered Traveller Status. Considering the needs of business and economical cooperation including constant international travel, the demand should, at least, be similar among non visa holders.

The Commission would be responsible for acquisition and maintenance of a central database. This could be the centralised entry/exit system and Registered Traveller Programme database. Member States would be responsible for the acquisition and maintenance of other components of the system (e.g. equipment to store the biometric identifiers, potential (semi-)automated border checks, separate lanes etc) as well any equipment / staff needed for enrolment of registered travellers as such. Furthermore, the Commission would be responsible for the possible amendments of the current legislation such as the Schengen Borders Code.

Sub option 3b: A harmonised Registered Traveller Programme available to EU citizens

In this sub option Member States would be obliged to introduce the required systems for the Registered Travellers at all external border crossing points.

The systems would be harmonised at EU level to be identical including the use of biometric identifiers (one or two identifiers), technical compatibility, vetting criteria etc. All EU citizens (also those without an e-passport) would be able to apply to become a member of the Registered Traveller Programme, but facilitated border control procedures would be available only for those citizens meeting the vetting criteria separately set at EU level. The vetting criteria could take into consideration, for example, the need for frequent crossings of the external border; important business relations etc. Controlling the fulfilment of the vetting criteria would demand separate pre-screenings going beyond minimum checks as laid down in the Schengen Borders Code.

Vetting would take place at border crossing points. The Registered Traveller Programme would not require biometric information over and above that which will be required for e-passports. The EU citizens without e-passport could be issued a specific token on which the biometric identifiers would be stored. Use would be made of biometric identity verification, but random checks could still be made. Membership of the Programme would enable Registered Travellers to use special channels at all EU crossing points. No fees would be charged.

It is difficult to estimate the numbers of EU citizens that would chose to apply and be accepted in such a Registered Traveller Programme. Demand would depend upon the stringency of vetting, the time taken to process application and the difficulties faced in otherwise crossing EU external borders. Around 80 million trips are made by EU citizens outside of the EU. It is reasonable to assume there are at least several million regular EU travellers who would wish to become members of such a Programme.

The Commission would be responsible for acquisition and maintenance of a central database. This could be the centralised entry/exit system and Registered Traveller Programme database. Member States would be responsible for the acquisition and maintenance of other components of the system at all external border crossing points (e.g. equipment to store the biometric identifiers, potential automated border checks, separate lanes etc). Furthermore, the Commission would be responsible for laying down rules regarding eligibility, vetting and technical compatibility.

Sub option 3c: Minimum standards are established for Registered Traveller schemes and Automated Border Control system for EU citizens

In this sub option a number and range of different schemes would be developed at national level in response to demand and in order to improve the management of passenger flows[44]. Member States would decide at which border crossing points they would like to set up the required systems. EU citizens holding e-passports would be able to benefit from Automated Border Control at all border crossing points in which the facility is available without having to register or enrol in advance. E-passports would be used to automatically verify EU citizens' identity. If a EU citizen does not have an e-passport, s/he could be nationally issued a specific token on which the biometric identifiers would be stored or the traveller could be asked to obtain an e-

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[44] See also Facilitation of Aviation Security: Feasibility study of "Registered Passenger" Concept. The study came to the conclusions that the Registered Passenger scheme is best suited for large hub airports with high volumes of passengers and possibly some regional airports with a high percentage of frequent fliers, but not suited for all kind of airports.

passport. No pre-screening would apply. Minimum standards would be established and applied to parameters such as: the use of the biometric identifiers (one or two identifiers), random checks; technical compatibility; data protection; and possibly pricing policies. The standards would need to be reviewed in the light of best practices and technological developments.

In order to compensate for ever-increasing queues at borders corresponding to an increase of travellers, including EU citizens, an automated system would offer EU citizens a more efficient service especially at busy border crossing points, and at the same time enable a more efficient use of border control resources.

There would be no need for a central database. Member States would be responsible for the acquisition and maintenance of the system (e.g. potential automated border checks equipment, separate lanes etc). Furthermore, the Commission would be responsible for minimum standards of the systems. However, each Member State could decide the border crossing points where the system will be used.

Key differences with status quo of policy option 3

For sub option 3a the key differences with the status quo would be that border crossings would need to be modified for two classes of TCN traveller, those on the programme and others; additional vetting of TCN in advance of travelling would be required.

For sub option 3b the key differences with the status quo would be the provision for EU travellers to use separate channels at border crossings through being part of a programme. Registered Traveller Programme facilities are introduced at all border crossing points.

For sub option 3c the key difference with the status quo would be the assurance that all registered traveller schemes and Automated Border Controls in the EU met minimum technical and performance standards. Member States can identify the border crossing points where such facilities should be installed. EU citizens holding e-passports would be able to benefit from the facility without having to register or enrol in advance.

5.   **ANALYSIS OF IMPACTS**

This section considers each of the policy options and sub policy options described in Section 4 against the criteria deriving from the policy objectives and the wider considerations of the Impact Assessment introduced in Section 3. The policy options have been assessed on a six point scale with respect to their likely performance relative to the general objectives. The baseline situation against which the ratings are made assumes the successful implementation of the status quo e.g. the VIS is used at the external borders. In other words, the policy options 2 and 3 have been assessed against a status quo option which foresees dynamic development of the current situation, whereas the status quo policy option has been assessed against the current situation.

Each policy option has also been assessed relative to a common set of criteria. These criteria derive from the general economic, social and environmental criteria and wider considerations applied in Impact Assessments. The link between the other relevant criteria and policy options was created so that whenever possible, the other relevant criteria were comprised in the assessment of the objectives. In practice, this means that the assessments of the other relevant criteria were used when weighing the objectives.

The other relevant criteria are:

- Robustness in the light of substantive and policy changes.

- Costs and benefits to bona fide EU citizen travellers.

- Costs and benefits to bona fide TCN travellers.

- Social and economic repercussions on the EU.

- Social and economic repercussions on third countries.

- Environmental impacts.

- Impacts on fundamental rights, particularly privacy and data protection.

- Net costs of implementation.

- Need for changes in Community legislation.

- Necessary pre conditions, accompanying measures to achieve impacts.

- Key risks of technical feasibility[45].

The relative merits of the policy options are then considered and the preferred option identified.

The impacts have graphically been indicated with symbols:

-	Negative impact
0	No impact
√	Small impact
√√	Medium impact
√√√	Very significant impact
√√√√	Exorbitant impact

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[45] To be presented in a separate Commission staff working paper on technical options in the beginning of 2008.

It must be stated that with the Impact Assessment it was noted that it is extremely difficult to estimate the impact of the entry/exit system and the Registered Traveller Programme in practice on the number of border guards and on the travellers´ waiting time as these depend almost entirely on the individual border crossing point and the fact if the Registered Traveller Programme or Automated Border Control system is used at that specific border crossing point or not. It should also be borne in mind that in practise the organisation and tasks of national border guard authorities differ widely between Member States,

There are huge differences between the traveller profiles at different border crossing points at the external border (for example, the number of TCN vs. EU citizens differs greatly). In the case of TCN the main factor is whether the traveller requires a visa or not. Also the current capacity to manage (infrastructure, data transmission system, customs and security checks etc.) the passenger flows at the border crossing point has a huge effect on the travellers´ waiting time and also border guard resources needed. As a result of the above factors, precise estimates of the impact of each option on border crossing times and the need for human resources could only be done based on a detailed analysis of the current situtation at each and every border crossing point of the Schengen area.

5.1. **Option 1: Status Quo**

- To reduce illegal immigration (especially overstayers): √√

Improved identity checks through the use of biometrics at entry and possible exit of the EU will deter the use of false or forged identity documents to enter the EU illegally. The provisions of the VIS and harmonised employer sanctions are anticipated to reduce illegal immigration. The identity of overstayers issued with a visa who are apprehended can be more readily validated as they would have provided biometric and other information under the VIS. Problems of overstaying will continue.

- To facilitate crossings of EU external borders for bona fide travellers, ensuring overall coherence of EU border policy: -

Possible deterioration for TCN requiring visas. In practice there could be deterioration in cross border travel by TCN requiring visas as waiting times may increase due to biometric checks being undertaken.

However, it is worth noting that the use of the VIS at external borders should not significantly prolong the duration of border checks. For example, in connection with the Biodev Study, it became evident that verifying biometric identifiers will take approximately 10-20 seconds.

- To contribute to the fight against terrorism and serious crime: √

The identity checks at borders should be improved through the use of biometrics for TCN requiring visas. These checks could help identifying those persons who have committed offences. Identity checks within the EU would also be possible for TCN requiring visas.

- To improve the effective management of economic migration (for example seasonal workers): √

The improvements anticipated in controlling illegal immigration through the VIS and the harmonisation of employer sanctions may increase the confidence to grant visa to temporary migrants. The VIS is however not designed as a system to manage economic migration.

In this Impact Assessment the management of economic migration has mainly been considered from the perspective of work-related legal migration. However, during the border checks the travellers are not generally categorised from one another, but the border checks are carried out in accordance with the Schengen Borders Code, whether the illegal entry is attempted by a person aiming to work in the EU or travelling as a tourist, irrespective of the person´s sex, race or age. In the case of minors, however, the best interests of the child must always be considered in accordance with the 1989 United Nations Convention on the Rights of the Child.

Other relevant criteria have already been identified in the Impact Assessment for setting up the VIS.

5.2. **Option 2: Entry/exit System**

Assessment of sub policy option 2a entry/exit system for TCN requiring visas

- To reduce illegal immigration (especially overstayers): √√

Legal entry into EU and subsequent overstaying by TCN holding a visa would be discouraged through the increased probability that overstayers would be identified and sanctions would be applied as necessary. Most overstayers originate from the countries where visas to visit the EU are required.

Information on a group of illegal immigrants, i.e. overstayers would improve (on TCN holding a visa). The entry/exit system would allow generating data to analyse profiles and patterns of overstaying and provide timely and reliable information on the identity and incidence of those entering the EU legally and overstaying their right to stay. This would allow border control resources to focus more on the detection of overstayers and illegal border crossings, and it would also contribute to maintaining internal security. Furthermore this would facilitate the apprehension and removals of illegal immigrants and enabling proper measures to be taken in order to review their status in the territory of the Member States and thus reducing the negative implications. Member States would be responsible for locating overstayers and mobilising the capacity for apprehending and returning them.

The simple presence of an effective entry/exit system would help to deter would-be over-stayers and criminals. This opportunity results from the psychological effect associated with the presence of a system that would track in a consistent, permanent and seemingly infallible way the flow of TCN in and out of the Schengen area.

- To facilitate crossings of EU external borders for bona fide travellers, ensuring overall coherence of EU border policy: √

Having a reliable record of the travel history of TCN holding a visa could help to identify and facilitate bona fide travellers. The entry/exit system would contribute to a risk-assessment. As this group would already provide biometrics at each entry under the VIS, no additional negative input should result from the entry/exit system. A register could give rise to changes in the visa policy, in the sense that citizens of certain countries would no longer require visas.

- To contribute to the fight against terrorism and serious crime: 0/√

The entry/exit system would provide travel histories of passengers including those that are considered suspects and thus complementing the information in the SIS II. Such data on the movements of terrorists and serious criminal suspects could be of value in locating them and in subsequent prosecutions.

It is worth noting that in the case of the TCN searches are already being made using the SIS system and national databases. In that respect, the entry/exit system does not bring any new dimension to the prevention of terrorism.

EU citizens entries and exits would not be registered. Therefore, it would be difficult to identify those EU citizens who have connections to terrorism or serious crime.

- To improve the effective management of economic migration (for example seasonal workers): √√

The system could provide for a tool for the management of an EU level seasonal workers scheme, for instance in that it could be used as a register for such workers and would allow to verify whether seasonal workers have complied with their obligation to return after the end of the contract and are thus allowed to re-enter. Also, the entry/exit system might have the potential to reduce illegal immigration due to overstaying and indirectly increase confidence that migration policies could be adjusted in light of supply and demand. To this end, the system could improve confidence to grant visas and work permits to temporary migrants due to the incentive to not overstay. Thus an entry/exit system would allow for the management of the common immigration policy and the efficient management of an EU migration instrument. Initiatives concerning border controls tend to make an indirect rather than direct contribution to the management of economic migration.

It is likely that (Member States´) quotas for the admission of seasonal workers would be agreed with third countries, as a component of future EU mobility partnerships. The system would allow verifying whether the agreed quota is filled and whether return has taken place at the end of the agreed term.

In the absence of a centralised system it is difficult to assess (at least for Member States not having a national database) whether the amount of TCN admitted matches with the labour market needs.

It is difficult to estimate the impacts of the entry/exit system with respect to numbers/spread of economic migration between Member States. Numbers of economic migrants admitted depend, and will continue to depend, on the needs of Member States labour markets and not on the system for management, be it national or at EU level. The aim is not to increase/decrease the numbers of seasonal workers

admitted, but to provide for flexible rules on the admission of such workers that can be managed efficiently. A separate Impact Assessment on the upcoming proposal for a Directive on criteria for admission of seasonal workers was launched in December 2007.

Other relevant criteria:

- Robustness in the light of substantive and policy changes

Benefits would accrue whether or not there are adjustments in migration and visa policy.

- Social and economic repercussions on the EU (including impacts on enterprise, governments, NGOs etc.)

Enterprises applying for visas for seasonal workers may be helped, if the sub policy option improves confidence in granting visas to temporary migrants and/or enterprises can demonstrate a record of employees complying with visa requirements.

- Social and economic repercussions on third countries

The repercussions would depend on the changes of visa policy. Some potential negative effects for third countries would occur if remittances relating to illegal economic migration are reduced.

- Impacts on fundamental rights: particularly privacy, data protection, presumption of innocence, fair trial, etc.

Potential significant impacts on data protection and protection of privacy as data on cross-border movements of TCN would be recorded and retained. System fallback procedures and the control of error rates would be critical as the consequences for the individual wrongly identified as an overstayer (e.g. missed flight, accident) could be severe. The scope of access to data should be limited to border control and migration authorities and duly authorised law enforcement authorities (as under the VIS Regulation). Data of TCN becoming EU citizens or their family members would need to be deleted.

The entry/exit system should follow the requirements set for the VIS system as to the privacy, data protection and fundamental rights of the travellers.

- Environmental impacts

No effects.

- Costs and benefits to bona fide EU citizens travellers

No effects.

- Costs and benefits to bona fide TCN travellers

The sub policy option would be able to confirm that TCN holding a visa had complied with the requirements of their visas. Some potential risk of subsequent visa applications being rejected or the TCN holding a visa being prevented from entering the EU due to system error.

- Capital/investment costs

There are likely to be only small additional capital costs.

- Ongoing financial costs (EU, MS, border authorities)

Increases in ongoing resource costs could accrue, if additional capacity is required to respond to the alerts received of overstayers. However, apprehension rates would be anticipated to improve.

- Necessary pre-conditions, accompanying measures to achieve impacts

Successful implementation of the status quo including the VIS, and in particular very high levels of accuracy with respect to the recording and validation through biometric identity checks of the timing of the cross border movements of TCN holding a visa.

All border crossing points should be equipped to be able to register the time and place of entry and exit of TCN holding a visa.

Assessment of sub policy option 2b entry/exit system for TCN not requiring a visa

- To reduce illegal immigration (especially overstayers): √√√

Biometric identity checks would be applied to TCN not requiring a visa who might otherwise not be subject to them. Legal entry into EU and subsequent overstaying by TCN not requiring a visa would be discouraged through the increased probability that overstayers would be identified and sanctions would be applied as necessary. However, evidence on the countries of origin of those illegal immigrants that have been apprehended in the territory suggest that TCN not requiring a visa are a small proportion of all illegal immigrants.

The entry/exit system would allow generating data for the analysis of profiles and patterns of overstaying and provide timely and reliable information on the identity and incidence of those entering the EU legally and overstaying their right to stay. This would allow border control resources to focus more on the detection of overstayers and illegal border crossings, and it would also contribute to maintaining internal security. Furthermore this would facilitate the apprehension and removals of illegal immigrants and enabling proper measures to be taken in order to review their status in the territory of the Member States and thus reducing the negative implications. Member States would be responsible for locating overstayers and mobilising the capacity for apprehending and returning them.

The simple presence of an effective entry/exit system can help to deter would-be overstayers and criminals. This opportunity results from the psychological effect

associated with the presence of a system that would track in a consistent, permanent and seemingly infallible way the flow of TCN in and out of the Schengen area.

Without verification of biometrics: √(√)

- To facilitate crossings of EU external borders for bona fide travellers, ensuring overall coherence of EU border policy: -/0

TCN not requiring a visa would be required to enrol in the system. This would have time and cost implications for them. If additional border control resources were not available for the enrolment and check of TCN not requiring a visa, there could be negative impacts on the bona fide passengers' crossings. On the other hand, having a reliable record of the travel history of TCN not requiring a visa could help to identify and facilitate bona fide travellers. A register could give rise to changes in visa policy, in the sense that citizens of certain countries would no longer require visas.

No particular negative impacts, if biometrics would not be used.

- To contribute to the fight against terrorism and serious crime: √

Biometric identity checks would be applied to TCN not requiring a visa who might otherwise not be subject to them. These might be used for identification purposes as in status quo for TCN holding a visa. Verification of TCN not requiring a visa at border crossing points helps combating terrorism and serious crime. Biometric information would allow identifying travellers even if they use other identities to cross external EU borders.

The entry/exit system would provide travel histories of passengers including those that are considered suspects and thus complementing the information in the SIS II. Such data on the movements of terrorists and serious criminal suspects could be of value in locating them and in subsequent prosecutions. However, known terrorists or criminals may be unlikely to enter (or exit) the EU legally.

No impact, if biometrics would not be used except travel histories of suspects being available.

- To improve the effective management of economic migration (for example seasonal workers): √

The system could provide for a tool for the management of an EU level seasonal workers scheme, for instance in that it could be used as a register for such workers and would allow verifying whether seasonal workers have complied with their obligation to return after the end of the contract. Also, the entry/exit system might have the potential to reduce illegal immigration due to overstaying and indirectly increase confidence that migration policies could be adjusted in light of supply and demand. To this end, the system could improve confidence to grant work permits to temporary migrants due to the incentive to not overstay. Initiatives concerning border controls tend to make an indirect rather than direct contribution to the management of economic migration.

Other relevant criteria:

Effects of the other relevant criteria are the same as the sub policy option 2a, except:

- Robustness in the light of substantive and policy changes.

Benefits would accrue whether or not there are adjustments in migration and visa policy.

- Social and economic repercussions on the EU

There could be some negative effects on those sectors experiencing labour shortages that are currently filled by only low skilled illegal migrants.

- Social and economic repercussions on third countries

Some third countries may 'retaliate' given that their citizens would be required to enrol and face potential delays at borders. The repercussions would depend on visa policy, that may become more 'open' to exempting some third countries from visa requirements should the sub policy option have the intended effect of reducing illegal immigration.

No particular negative impacts, if biometrics would not be used.

- Costs and benefits to bona fide EU citizen travellers

Potential indirect negative effects through delays, if additional resources are not available for the enrolment and for checks of TCN not requiring a visa. The border guards deployed at border crossing points may be increasingly used for handling TCN. This could mean less resources for the checks of EU citizens.

Existing Border Guard resources are used more than nowadays to enrol and check TCN.

No particular negative impacts, if biometrics would not be used.

- Costs and benefits to bona fide TCN travellers

There would be significant increases in the time taken and costs of crossing EU external borders of TCN not requiring visas. Several minutes is estimated to be required for the enrolment[46] of each of the circa 25 million TCN not requiring visas that enter the EU each year. Long queues and serious delays could occur at bottlenecks. Some potential risk of subsequent TCN not requiring visas being rejected or the TCN not requiring visa being prevented from entering the EU due to system error.

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[46] Registered Traveller case studies indicated that fingerprints and facial images can be taken between 4 and 6 minutes. However, there would be merit in running checks during the enrolment process and for one reason or another some passengers may not be able to provide reliable biometrics which would lead to the requirement for alternative mechanisms to be applied.

No particular impacts, if biometrics would not be used, except that there is a potential risk of subsequent TCN not requiring visas being rejected or the TCN not requiring visa being prevented from entering the EU due to system error.

- Capital/investment costs (EU, MS, border authorities)

There are likely to be additional capital costs as the enrolment process would involve the taking of biometrics and biometrics should be checked at entry and exit. The Member States would be obliged to acquire more equipment to save and check the biometric identifiers of TCN not requiring visas at the border crossing points. All control lines for TCN would have to be equipped with fingerprint readers.

No particular impacts without biometrics.

- Ongoing financial costs (EU, MS, border authorities)

The enrolment of TCN not requiring visas would need to be supervised by border guards. It is reasonable to assume that one official could supervise and process 8000 enrolments per annum. In this case in the order of 3100 FTE additional border control staff would be required. Furthermore, all border crossing points would need to be resourced in a manner that would allow for enrolment. Increases in ongoing resource costs could also accrue, if additional capacity is required to respond to the alerts received of overstayers. However, apprehension rates would be anticipated to improve.

No particular impacts, if biometrics would not be used.

- Necessary pre-conditions, accompanying measures to achieve impacts

Successful implementation of the status quo including the VIS, and in particular very high levels of accuracy with respect to the recording and validation through biometric identity checks of the timing of the cross border movements of TCN not requiring a visa.

All border crossing points should be equipped to be able to register the time and place of entry and exit of TCN not requiring a visa.

5.3. **Option 3: Measures to facilitate cross-border flows (Registered Traveller Programme and Automated Border Control)**

Assessment of sub policy option 3a: A Registered Traveller Programme for TCN

- To reduce illegal immigration (especially overstayers): √

A Registered Traveller Programme might have the potential to free up border control resources so that they could focus on groups of travellers assessed as being more and most likely to be linked to illegal immigration. To reach more positive effects the entry/exit system should be used. This would prevent overstayers from exploiting the Registered Traveller Programme.

- To facilitate crossings of EU external borders for bona fide travellers, ensuring overall coherence of EU border policy: √√√

Benefits due to reduced or limited waiting times at border crossing points. The impact of the Registered Traveller Programme on the border crossing time varies from each border crossing point. For that reason, it is difficult to make exact estimations.

However, some checks would still have to be carried out e.g random checks, second line checks, pre-screening of passengers and checks against watch lists including those from country of origin[47] of TCN.

The improvements would only accrue to Registered Travellers who would be a minority of TCN travellers.

The Registered Traveller Programme would be more beneficial to TCN than to EU citizens, because TCN are subject to thorough checks at the external borders.

The border crossing points especially at the land borders have queues that may take hours. The basic reason for the queues is not more careful border checks of TCN, but rather the steady increase of traveller flows and the respective decrease in the capacity of the border crossing points. Facilitated border checks will have an impact only on a small fraction of the time generally required for border crossings. In order to make border checks smoother, also the customs checks and security checks at airports should be made more fluent and faster. To decrease the time required for border crossing, the Registered Traveller Programme would enable building separate lanes in such a way that it would not be necessary to increase the number of border check personnel.

- To contribute to the fight against terrorism and serious crime: -

Potentially negative contribution. Prospective and unknown criminals or terrorists may seek to exploit the facility.

Potential negative effect is also due to the fact that border guards are accustomed to observe even the faintest cues, for example, reading the unusual behaviour of a human being, or observing the smallest details in the travel documents (change of photo etc.). This human factor is removed if the checks of the Registered Travellers are eased . Only in random checks will the human factor still exist. It is possible to forge finger prints using modern techniques and materials[48]; finger prints can be even bought or stolen.

- To improve the effective management of economic migration (for example seasonal workers): √

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[47] See also Facilitation of Aviation Security: Feasibility study of "Registered Passenger" Concept. The study concluded that there should be a chance to reject TCN from the scheme if the requisite background checks cannot be completed.
[48] See also Study on Automated Biometric Border Crossing Systems for Registered Passengers at European airports made by Frontex page 14.

Indirect effects: Benefits due to reduced or limited waiting times at border crossing points. The Registered Traveller Programme could encourage also those TCN who wish to commute daily from their own country to their work place in the Schengen area to look for a job in the Schengen area.

May enable border control resources better focus on checking riskier group of travellers and thus increase public confidence in the border control system.

Other relevant criteria:

- Robustness in the light of substantive and policy changes.

The sub policy option could be adjusted within scenarios involving increases in travel and changes in migration and border control policy.

- Social and economic repercussions on the EU and third countries

Positive effects on business and trade are likely. Small positive economic effect via traveller time savings. There would be a need to cooperate with enforcement authorities in third countries in order to check would-be participants against national databases.

- Environmental impacts

Additional channels may need to be built at certain border crossing points.

- Impacts on fundamental rights: particularly privacy, data protection, presumption of innocence, fair trial etc

A provision would be required to provide TCN applicants with the reasons why they have not been accepted onto the programme. Data provided under the vetting process would need to be subject to data protection provisions.

- Costs and benefits to bona fide EU citizens travellers

No effect.

- Costs and benefits to bona fide TCN travellers

Benefits due to reduced or limited waiting times at border crossing points.

- Capital/investment costs (EU, MS, border authorities)

Resources would be required to create separate channels for Registered Travellers, although this would not necessarily need to take place at all border crossing points.

One automated gate unit costs approximately 35.000 euro.

- On going financial costs (EU, MS, border authorities)

Resources would be required to vet applicants at visa consulates and/or at the border crossing points. Some potential resource savings as checks on Registered Travellers

would subsequently be lighter than on other TCN. Resource costs could be offset by charges for participation.

- Necessary pre conditions, accompanying measures to achieve impacts

Not reliant on other policy options.

Assessment of sub policy option 3b: A harmonised Registered Traveller Programme available to EU citizens

- To reduce illegal immigration (especially overstayers): √

A Registered Traveller Programme might have the potential to free up border control resources so that they could focus on groups of travellers assessed as being more and most likely to be linked to illegal immigration.

- To facilitate crossings of EU external borders for bona fide travellers, ensuring overall coherence of EU border policy: √√

Benefits due to reduced or limited waiting times at border crossing points, but smaller than for TCN as minimum checks for EU citizens is already the rule. The impact of the Registered Traveller Programme on the border crossing time varies from each border crossing point. For that reason, it is difficult to make exact estimations.

The systems are available at all external border crossing points, but facilitated border control procedures would be available for only those EU citizens meeting the vetting criteria separately set at EU level.

The absolutely most useful benefit of the option would be the availability of the Registered Traveller Programme at all border crossing points. The negative point would be that Member States would have to implement the Registered Traveller Programme also at those border crossing points where there is no actual need for the programme, yet there would be substantial costs for implementing the programme there.

- To contribute to the fight against terrorism and serious crime: -

Potentially negative contribution. Prospective and unknown criminals or terrorists may seek to exploit the facility.

Potential negative effect is also due to the fact that border guards are accustomed to observe even the faintest cues, for example, reading the unusual behaviour of a human being, or observing the smallest details in the travel documents (change of photo etc.). This human factor is removed when border checks are automated. Only in random checks will the human factor still exist. It is possible to forge fingerprints using modern techniques and materials; fingerprints can be even bought or stolen.

- To improve the effective management of economic migration (for example seasonal workers): 0/√

Indirect effect: May enable border control resources to better focus on checking riskier group of travellers and thus increase public confidence in border control systems.

Other relevant criteria:

Effects of the other relevant criteria are the same as the sub policy option 3a, except:

- Robustness in the light of substantive and policy changes.

The sub policy option would be able to adjust to scenarios involving increases in travel.

- Social and economic repercussions on the EU and third countries

Possible small positive effects on business and trade. Small positive economic effect via traveller time savings.

- Impacts on fundamental rights: particularly privacy, data protection, presumption of innocence, fair trial etc.

There is a potential issue of discrimination assuming that people that are not registered or accepted are suspicious, depending on the criteria applied to register in the programme. Data provided under the vetting process would need to be subject to data protection provisions. Systems of appeal for refusal of applicants would be required.

All EU citizens have the same rights to enter and exit the EU. In accordance with Article 7 of the Schengen Borders Code, all persons crossing the external border shall be subject to a "minimum check", both at entry and exit, consisting of the examination of the travel document so as to verify the identity of the individual. This is the rule for EU citizens and other persons enjoying the Community right of free movement. The sub policy option would arguably be a source of discrimination conferring benefits to those that have registered and been accepted to the programme.

- Costs and benefits to bona fide EU citizen travellers.

Potential travel time savings to registered travellers.

- Costs and benefits to bona fide TCN travellers.

No effects.

- Capital/investment costs (EU, MS, border authorities)

Separate channels would be required, particularly at major bottle necks such as big airports with huge number of travellers from the EU. These channels would need to be consistent at all EU border crossing points, giving rise to need for the EU to fund the investment so as to ensure burden sharing.

One automated gate unit costs approximately 35.000 euro.

- On going financial costs (EU, MS, border authorities)

The main costs would be in building up the system and processing applicants for the Registered Traveller Programme.

- Necessary pre conditions, accompanying measures to achieve impacts

The benefits that would accrue would largely depend upon the disadvantages and delays to EU passengers who are not registered in the Programme. If conditions for unregistered passengers are poor, then the benefits for registered passengers are potentially greater.

Assessment of sub policy option 3c: Minimum standards are established for Registered Traveller schemes and Automated Border Control for EU citizens

- To reduce illegal immigration (especially overstayers): √

A Registered Traveller Programme and Automated Border Control might have the potential to free up border control resources so that they could focus on groups of travellers assessed as being more and most likely to be linked to illegal immigration.

- To facilitate crossings of EU external borders for bona fide travellers, ensuring overall coherence of EU border policy: √

Benefits due to reduced or limited waiting times at border crossing points, but smaller than for TCN as minimum checks for EU citizens is already the rule. The impact of Automated Border Control on the border crossing time varies across each border crossing point. For that reason, it is difficult to make exact estimations.

Member States would decide the border crossing points where they would like to set up the systems. EU citizens holding e-passports would be able to benefit from Automated Border Control without having to register or enrol in advance.

- To contribute to the fight against terrorism and serious crime: -

Potentially negative contribution. Prospective and unknown criminals or terrorists may seek to exploit the facility.

Potential negative effect is also due to the fact that border guards are accustomed to observe even the faintest cues, for example, reading the unusual behaviour of a human being, or observing the smallest details in the travel documents (change of photo etc.). This human factor is removed when border checks are automated. Only in random checks will the human factor still exist. It is possible to forge fingerprints using modern techniques and materials; fingerprints can be even bought or stolen. However the use of multimodal biometrics could help mitigate this risk.

- To improve the effective management of economic migration (for example seasonal workers): 0/√

Indirect effect: May enable border control resources to better focus on checking riskier group of travellers and thus increase public confidence in border control systems. The system might reduce also TCN border crossing time and in that way

encourage TCN to work in the Schengen area. Smoother border checks for TCN would be possible because the border guards could be transferred to check TCN instead of checking EU citizens.

Other relevant criteria:

Effects of the other relevant criteria are similar as the sub policy option 3b, except:

- Robustness in the light of substantive and policy changes.

The sub policy option would be able to adjust to scenarios involving increases in travel. It would also be able to take account of the increase in number with the variety of Registered Traveller Schemes and Automated Border Control Systems that could be implemented.

- Social and economic repercussions on the EU and third countries

Minor positive effects on business and trade. Minor positive economic effects via traveller time savings.

- Impacts on fundamental rights: particularly privacy, data protection, presumption of innocence, fair trial etc.

The minimum standards would potentially strengthen aspects of the application and data protection. Defining, monitoring and enforcing 'minimum standards' could be problematic.

- Costs and benefits to bona fide EU citizen travellers.

Potentially small travel time savings to EU citizens.

- Capital/investment costs (EU, MS, border authorities)

It is unlikely that the minimum standards would lead to significant increases in capital costs, indeed the standards could be based on schemes which are judged to have been cost effective. Its feasibility is not dependent upon the status quo or other policy options. It could be implemented in the short term.

One automated gate unit costs approximately 35.000 euro.

- On going financial costs (EU, MS, border authorities)

The main costs would be in building up the system.

- Necessary pre conditions, accompanying measures to achieve impacts

Not reliant on other policy options.

5.4. **Comparative assessment**

As indicated below in Table 1 and 2 policy option 2b would have a more significant effect on reducing illegal immigration than policy option 2a. There are biometric

identifiers of TCN requiring a visa in the VIS system. It is possible to identify biometrically a TCN requiring a visa both at the border crossing point and also if s/he travels or resides in the European Union without requisite travel documents. Whereas, in respect to TCN not requiring a visa (2b), this is not possible if biometrics are not captured. If biometrics are captured also from TCN not requiring a visa, policy option 2b is likely to be more effective in reducing illegal immigration.

The impacts of 2a and 2b would be greater than the status quo which is itself expected to reduce illegal immigration to some extent. However, it would be unrealistic to expect that the policy options would eliminate illegal immigration. The push and pull factors that lead to illegal immigration will remain strong and some amongst those who enter the EU legally will opt to overstay irrespective of whether sanctions may result. Indeed the prospect that leaving after their 'due date' could limit their ability to re-enter the EU legally could have a perverse effect of prompting some to stay longer.

Policy options 2a and 2b are likely to be effective in identifying overstayers and to lead to their apprehension if biometrics are captured also from the TCN not requiring a visa. Otherwise 2a is likely to be more effective. However, it should be noted that most overstayers are TCN requiring visas.

However, detecting and apprehending overstayers in the European Union is difficult because there is no information about the whereabouts of the overstayers. It is only known that the overstayers are somewhere in the European Union. At the border crossing points it is easier to detect overstayers, as the entry/exit system informs the border guard when an overstayer is being checked.

Only policy options 3a and 3b contribute markedly to facilitating the cross border crossing of bona fide travellers. However, both policy options 2a and 3c contribute to some extent, whereas option 1 and 2b may have a negative impact in this respect.

None of the policy options contribute markedly to reducing terrorism or serious crime but policy options 1 and 2b have the greatest potential in this respect. In view of the latest terrorist acts in the area of the EU, it can be noted that the perpetrators have mainly been EU citizens or foreigners residing and living in the Member States with official permits. Usually there has been no information about these people or about their terrorist connections in the registers, for example in the SIS or national databases. The entry/exit system does not register entries or exits of the EU citizens or their relatives. Therefore, the entry/exit system will not be able to have an impact on this specific target group.

Policy option 2a has the greatest potential to contribute to the management of economic migration.

Should fingerprints be used as the biometric identifiers in the entry/exit system for the TCN not holding a visa, this development will increase costs and time of the border crossings as compared to using only alphanumeric data and exploiting, for example, only the machine readable zone of the passport. It is faster to read only the alphanumeric data than verifying fingerprints, and no enrolment of the TCN is needed. On the other hand, benefits from using the biometric identifiers would include an improved level of security in the European Union, better legal protection

of the traveller and reliability of the system. Earlier in this assessment, there have been references to potential sanctions that could be directed to the TCN overstaying in the Schengen area on the basis of information gathered from the system. Prior to any such sanctions, the authorities should be absolutely certain about the identity of the person in question. And vice versa, no such sanctions should be directed if there is not any 100% proof of illegal activities. With biometric identifiers, the Member States would have much more reliable information on the identity of the person illegally residing in the Schengen area and on the duration of the illegal stay. Verifying the identity of the persons illegally residing in a country would be easier and more reliable with the help of biometric identifiers, also within the Schengen area.

Table 1 – Assessment of the status quo

Policy Option (Anticipated impacts rated from – (negative contribution to objective) to √√√√√ (full achievement of objective)	
Objective *to be achieved/ problem addressed*	**Policy option 1 (status quo)**
Policy objective: To reduce illegal immigration (especially overstayers)	√√
Policy objective: To facilitate crossings of EU external borders for bona fide travellers, ensuring overall coherence of EU border policy	-
Policy objective: To contribute to the fight against terrorism and serious crime	√
Policy objective: To improve the effective management of economic migration (for example seasonal workers)	√
Relative costs	NA

Note: Status quo has been assessed against the current situation.

Table 2 – Comparative assessment of other policy options and sub options (2a – 3c)

Comparative assessment of policy options and sub options					
Policy Options (Anticipated impacts rated from – (negative contribution to objective) to √√√√√ (full achievement of objective)					
Objective *to be achieved/ problem addressed*	**Policy option 2a**	**Policy option 2b**	**Policy option 3a**	**Policy option 3b**	**Policy option 3c**
Policy objective: To reduce illegal immigration (especially overstayers)	√√	√√√	√	√	√
Policy objective: To facilitate crossings of EU external borders for bona fide travellers, ensuring overall coherence of EU border policy	√	-/0	√√√	√√	√
Policy objective: To contribute to the fight against terrorism and serious crime	0/√	√	-	-	-
Policy objective: To improve the effective management of economic migration (for example seasonal workers)	√√	√	√	0/√	0/√

Relative costs[49]	Low	Medium	Low-Medium	Low-Medium	Low
Preferred option	√	√	√		√

Note: The baseline situation against which the ratings are made assumes the successful implementation of the status quo (table 1). Other policy options (2a-3c) have been assessed against this option. As an example, the policy option 2a is two ticks (√√=medium impact) more effective "to reduce illegal immigration (especially overstayers)" than the baseline.

Note: policy option 2a=Entry/exit for TCN requiring visas; 2b=Entry/exit for TCN not requiring visas; 3a=Registered Traveller Programme available to TCN; 3b=Harmonised Registered Traveller Programme available to EU citizens; 3c=Minimum standards are established for Registered Traveller schemes and Automated Border Control system for EU citizens.

5.5. Preferred option

There is a clear merit in pursuing policy option 2a, the entry/exit system for TCN requiring visas, to meet the specific objective of deterring illegal immigration. The costs are low and the policy benefits significant. There are no major risks associated with the policy option except those that concern the successful implementation of the status quo. Sub policy option 2a should thus be part of the preferred option.

The balance of costs and benefits of policy option 2b, the entry/exit system for TCN not requiring visas is less clear cut. There would be costs associated with the enrolment of TCN, if biometric identifiers are used and checked, but there would be benefits in reductions of illegal immigration. Data on non-visa holders should be used in an identical way as for visa holders with regard to alerts, data collection and law enforcement purposes. This would allow possibilities for identifying undocumented persons within the Schengen area.

Given the importance of reducing illegal immigration and the improved information on patterns of overstaying that the sub policy option would provide, and because it could give rise to changes in visa policy, in the sense that citizens of certain countries would no longer require visas, there would be resource savings to the EU. A central EU entry/exit system would also allow automated recording of entry and exit of a TCN seasonal worker and thus verification of compliance with the obligation to return after the fixed period. The register would be at EU level which in turn would allow for the implementation of EU policies in the field of economic migration. It is proposed that sub policy option 2b should also be part of the preferred policy option.

The entry/exit system has to be implemented at all types of borders (air, sea, land) and all border crossing points. In the absence of a thorough implementation at all types of borders the systems may displace the movements of would-be overstayers, criminals and terrorists towards those borders and entry points in which the system is

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[49] The costs of technical implementation will be presented in a separate Commission staff working paper on technical options in the beginning of 2008.

not in place. As, in general, TCN enter and exit the Schengen area at border crossing points of their choice, a central solution is necessary to reconcile entry and exit data.

It should be noticed that the entry/exit system would help Member States to better profile traveller flows. In order to arrange and target the border checks and in order to manage economic migration, Member States will have real-time information about the current situation of legal and illegal migration (especially about the overstayers). At the same time, the fact-based statistics about the changes of illegal immigration at the level of the EU would be available (exempt from the illegal immigration outside the border crossing points).

In addition to this, it is possible to gather information on the following facts: traveller´s country of origin; the country of destination; the purpose of the visit; the amount of travellers requiring a visa or exempt from a visa etc. When individuals are applying for a visa they inform authorities about the aforementioned facts. In the case of the TCN not requiring a visa, those pieces of information should be added to the database when biometrics are stored. The gathered information will help authorities within the Schengen area to target their actions and measures to the right groups of individuals in the right country and/or in the right region. With the help of the entry/exit system it would be possible to verify the identity of the TCN not requiring a visa within the Schengen area. This opportunity will be most beneficial in a situation where a person has no travel documents and it has not been possible to verify his/her identity through the authorised use of other databases such as Eurodac.

With the help of the information created by the register it would be possible to define in a more reliable manner which TCN should be required a visa and which should not. In this way, the system could also have an effect on the visa policy of the EU.

In the case of seasonal workers, the register would allow making statistics of migration and thus help managing migration policy. The Register would enable the authorities to check if the seasonal workers have obeyed their right to stay in the Schengen area.

None of the arguments for the sub options within policy option 3 are extremely strong, because the benefits to travellers of being on Registered Traveller Programmes derive in large part from the relative 'costs' of being 'normal' traveller. However, on balance sub policy option 3a which would provide a Registered Traveller Programme for TCN would offer forms of improved service to TCN frequent travellers facing the challenges arising from increased security levels, growing demand and limited resources[50]. Thus this sub policy option should be part of the preferred option.

On the other hand the benefits of the introduction of sub policy option 3b, a harmonised Registered Traveller Programme for EU citizens would be unlikely to offset the costs and could be seen as discriminatory. At the same time sub policy option 3c, that would provide a framework for the development of Registered Traveller schemes and Automated Border Control tailored to the needs of particular border crossings but maintaining minimum standards, would be of merit and of low

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[50] See Facilitation of Aviaton Security: Feasibility study of "Registered Passenger" Concept.

cost. Sub option 3c would allow Member States to consider at which border crossing points such measures would have an added value. There is no need for establishing this at all external border crossing points and moreover the systems do not need to be identical.

The compatibility will be ensured with technical minimum standards. Hence, an EU citizen with an e-passport or a specific token can use the system of any other Member States, without specific enrolment. The latter, which would involve additional vetting criteria as outlined under sub policy option 3b, could be seen as a step backwards compared to the right of EU citizens to be subject to a minimum check only under the current legal framework. Thus it is proposed to include policy option 3c in the preferred option. Each Member State would inevitably have to make a precise assessment for each individual border crossing point, whether the system would bring added value to the throughput capacity of the border crossing point and thus decrease travellers' border crossing time.

The preferred option is not any of the policy options or sub options alone. It is thus a combination of an entry/exit system for all TCN (sub policy options 2a and 2b) and a Registered Traveller Programme open to TCN (sub policy option 3a) and a framework for the development of 'local' Registered Traveller schemes and Automated Border Control (sub policy option 3c). The preferred option generates reasonable benefits and contributes considerably to the achievement of the main objectives. The potential of the preferred option with respect to reducing terrorism and serious crime is however not substantial due to the nature of the problem and possibilities to tackle it by the means of border checks. The preferred option includes two complementary measures as the Registered Traveller Programme and automated border crossing systems can be seen as compensatory to TCN that are subject to more stringent migration and border controls and the potential costs of waiting at borders through the entry/exit system. The Registered Traveller Programme for TCN and Automated Border Control for EU citizens would allow border control authorities to focus their resources on those groups of travellers that require more attention in terms of risk analysis.

The costs would not increase considerably as compared to the status quo with the possible exception of waiting times at the borders. However, the preferred option is highly dependent upon the success of the implementation of the status quo. Failure of the VIS system for carrying out identity checks at EU external borders, and to operate efficiently and at all border crossing points would render the preferred option of limited benefit.

In accordance with the draft final report of the entry/exit technical feasibility study the estimated costs of the centralised entry/exit and Registered Traveller Programme system would be approximately 20 million euro, spread out over 2-3 years and the annual maintenance and operational costs approximately 6 million euro. The costs across all Member States would be approximately 35 million euro, but could vary greatly depending on the number of automated gates that would be implemented. External Borders Fund could support Member States in relation to purchasing necessary equipment. For third countries no costs would occur. After possible adoption of the entry/exit system and Registered Traveller Programme, third countries will be informed accordingly.

The preferred option would require several safeguards:

- If there were errors on the identity checks of passengers, facilities would need to be available for manual checks and for amending the data on entry and exit at all border crossing points.

- Facilities should be widely available to update information in the entry/exit system to reflect changes, such as circumstances that might lead to overstay (for example plane cancellations, sickness etc.).

- Some form of 'right to appeal' against possible sanctions imposed due to apparent overstaying would need to be introduced.

- There would be merit in a measure of harmonisation of the definition of overstayers and of the possible sanctions applied to TCN that become overstayers and the procedures for removals.

To be effective, data would have to be retained on the histories of cross border movements of TCN. This raises data protection issues that will need to be safeguarded.

From the technical perspective concerning the entry/exit system, the VIS and the SIS II pursue different objectives and thus comprehensive synergies cannot effectively be applied in this context, although technical synergies could be found. The VIS system could be used for the purposes of the entry/exit system for registering the entry and exit data of TCN requiring a visa. Regarding TCN not requiring a visa, at least partially separate database would be required, but which could build on the same technical platform as the SIS II and the VIS and use the same Biometric Matching System (BMS). This would allow for exploiting synergies with existing biometric systems keeping costs low and ensuring interoperability. To maintain consistency and interoperability the same guidelines that are used by the VIS should be followed for the collection of biometric data, including quality, capture and storage requirements. As long as similar standards and procedures are followed, the procedure for TCN not requiring a visa can be virtually identical to the process for TCN requiring a visa. This provides for maximum efficiency gains of technology as well as maximum usability and minimal costs of deployment and running of the solution. This system should be accessible via system interfaces from Member State border control systems. As for the Registered Traveller Programme, a separate data store will be required. It is possible to construct one single centralised entry/exit system and Registered Traveller Programme database; thus in any case, only one new database would be needed.

It is likely that mobile devices will need to operate in online and offline modes, i.e. always when connectivity is available, they will communicate with Member State and/or EU systems to record the entry or exit and to verify biometrics stored in central databases. In the event that connectivity is not available, in offline mode, the device will match against biometric samples stored on e-passports or another token and store events in local memory for upload to the central databases at a later time.

6. **ELABORATION OF THE PREFERRED OPTION**

This section of the report elaborates the preferred option. That is a combination of an entry/exit system for all TCN and 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.

6.1. **European value added and proportionality**

The entry/exit system for TCN requiring visas builds on the VIS and status quo policy option through which much of the necessary investment will have taken place. Its implementation and effectiveness will require the cooperation of Schengen countries. The case for organisation at the EU level is compelling. The additional costs are low and the sub option is clearly proportionate.

The entry/exit system for TCN not requiring visas must also be implemented at the Schengen level. It could have important implications for and dependencies on visa policy which is determined at the Schengen level. The policy option needs to be implemented at all EU borders and will have implications for burden sharing and the border guard resources of all Schengen countries. In order to fully meet its objectives an entry/exit system should be applied consistently at all borders and all border crossing points. A common database where all travellers at the external borders are registered is needed. Otherwise the end results would be: "invisibility" of the overstayers and exploitation of those border crossing points without the entry/exit system by criminals. A person may enter the EU at a border crossing point where an entry/exit system is used, but exit through a border crossing point where no such system is used.

The Registered Traveller Programme open to TCN has to be implemented at the Schengen level although special facilities for the passage of Registered Travellers would not need to be introduced at all border crossing points. The net costs are likely to be low and proportionate to the benefits offered to bona fide registered travellers. TCN traveller would be properly screened, vetted and identified as a Member of the Registered Traveller Programme before facilitating entry to the Schengen area. Screening and vetting criteria as well as the policies on validity, expiry and revocation would have to be defined EU wide. This in turn would establish the basis for a central database to be provided and shared on an EU level.

The minimum standards for Registered Traveller Schemes and Automated Border Control would similarly need to be introduced at the Schengen level. This is because the implications of failures of a Registered Traveller Scheme and Automated Border Control operating in one country could impact on other Schengen countries. It should be noted that there are already well developed schemes in a number of Member States. It would represent a major step forward in terms of facilitation if such schemes would be interoperable within the EU and a person could use the Automated Border Control System of another Member State. Common criteria and minimum standards would be a prerequisite for such interoperability. On the other hand, each Member State should be able to decide if it will use the programme at its border crossing points or not. Otherwise systems would be set up in such border crossing points where there is no actual need for the system.

The preferred policy option would remain relevant also if there would be substantial changes in border control and migration policies and in the patterns of EU external cross border movements. The preferred option would not limit the scope for the introduction of other improvements.

6.2. **Legislative implications**

There are no provisions in the Schengen Borders Code on the registering of cross border movements of the travellers. Currently the stamping of the travel document is the sole instrument indicating the dates of entry and exit at the disposal of border guards and immigration authorities to calculate the duration of the stay of TCN. Other tools to check persons at the external borders such as the databases of which consultation is compulsory at entry, not at exit, are not intended to have this functionality.

Entry/exit

It is not envisaged that major legislation would be needed for the entry/exit system for TCN requiring visas. However, amendments to the Schengen Borders Code and the VIS Regulation would be necessary in order for cross border movements of TCN holding a visa to be systematically recorded using the biometric identifiers stored in the VIS. If a separate entry/exit database were developed containing records of all TCN then the VIS Regulation would not require an amendment. Whilst not essential for the efficacy of this policy option there would be merit in a measure of harmonisation of the definition of overstayers and of the possible sanctions applied to TCN that become overstayers and the procedures for removals.

New Community legislation would be required to implement the entry/exit system for TCN not requiring visas by amending the Schengen Borders Code. If the fingerprints are captured, the requirement to enrol the TCN would be mandatory, a condition of entry to the EU and the information generated by the policy options could be used to identify, apprehend and return overstayers and limit the possibilities for them to enter the EU or otherwise impose sanctions on them. Whilst not essential for the efficacy of this sub policy option, there would be merit in a measure of harmonisation of the definition of overstayers, the 'sanctions' applied to TCN that become overstayers and the procedures for removals.

Registered Traveller Programmes and Automated Border Control

The minimum control to which EU citizens are systematically submitted each time they cross the borders consists in the verification of the person's identity and of the validity of the travel document. The primary requirement of an Automated Border Control process for EU citizens is to automatically verify the claim of EU citizenship through the authentication of the travel document and traveller. This type of checking does not require the intervention of border guards once it proves possible to be fully carried out with recourse to the new technologies. This would thus not appear to require any legislative changes. However, it should be noted that checks against the SIS and national databases would still be carried out on a random basis.

If TCN were also covered, it would be necessary to find a solution specifying the screening to be carried out at the time of the enrolment in the programme, which

could replace certain checks at borders and ensure that the person still fulfils the conditions of entry and stay at the time of the border crossing. In order to enable an EU-wide recognition of Registered Traveller credentials, and having regard to that border checks are currently harmonised at EU level, the process for screening eligibility criteria and vetting would need to be harmonised across the EU. Only the fact that a traveller has been properly screened, vetted and identified as part of the enrolment process to the Registered Traveller Programme allows for the possibility to facilitate entry to the Schengen area. Also the policies on validity, expiry and revocation would have to be defined EU wide. This in turn would establish the basis for a central database to be provided and shared on an EU level. It should be noted, that a legal change to remove the stamping obligation of a passport and a visa should be done.

Given that a legal framework should be established enabling the development of Registered Traveller schemes for TCN, standards would be settled and applied to parameters such as: eligibility and vetting including its regularity; automatic verification systems; random and second line checks; data protection; protection of privacy and fundamental rights and possibly pricing policies. This could be achieved through amendments to the Schengen Borders Code and through other legal instruments.

If a traveller granted a Registered Traveller Status would not have complied with the rules of the programme e.g. (s)he overstays or an alert is inserted in the SIS or national database, a responsible Member State should immediately revoke the traveller's status and when necessary inform other Member States.

6.3. Measures to ensure data protection and protection of rights of travellers

It is important that the preferred policy option should comply with data protection principles and the requirements of necessity, proportionality, purpose limitation and quality of data; and that safeguards and mechanisms are in place for the effective protection of the fundamental rights of the individual travellers and in particular the protection of their private life and their personal data. Third country nationals must be made aware of these rights. However, the preferred option is relevant to both migration and to combating terrorism and serious crime and as with aspects of the status quo this poses data protection challenges.

Respect for fundamental rights is a basic principle of any Community policy in the field of fight against illegal immigration. The Hague Action Plan states the need "to ensure the full development of policies enhancing citizenship, monitoring and promoting human rights". Thus, any policy initiative to reduce the amount of illegal immigration into the EU has to respect fundamental rights, which illegal immigrants enjoy.

Although some of the information generated by the entry/exit system would be, in theory, already available[51], the policy option would involve the systematic electronic recording and storing of information on the time and place of entry and exit of TCN. Most travellers crossing the EU and other international borders provide similar information via ticketing information held by carriers or on other records of entry

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[51] TCNs' passports are stamped on entry and exit. On exit border guards are able to ascertain whether the visa holder has overstayed.

and exit[52] and may not consider such information as highly confidential. However, some will consider its retention on a database invasive, as the data would normally be held as confidential. Whether or not the information is considered confidential is, in any case, irrelevant from the perspective of data protection law and has limited relevance as regards the protection of the right of privacy.

The data would be stored in a form that could be easily manipulated and there is a potential problem, as with any data of this type, that it could be used inappropriately. According to Article 6 of Directive 95/46/EC Member States shall provide that personal data must be processed fairly and lawfully, that they are collected for specified, explicit and legitimate purposes. Furthermore the processing of personal data must be adequate, relevant and not excessive in relation to purposes for which they are collected and processed.

The provisions of data protection for the VIS and the status quo including the retention of information for just 5 years would be necessary to ensure adequate data protection provisions for this policy option. In addition, provisions would be necessary to ensure that, for the records of entry and exit that:

- The data generated by the entry/exit system should only be used by responsible migration and border control authorities except in exceptional circumstances where duly authorised law enforcement authorities seek with good cause, evidence on the travel histories of named individuals.

- Individuals should have the right to access to information held on them and to challenge and correct it, if errors have occurred.

- The provisions would allow for appeals in cases where TCN are forced to overstay, overstayed only apparently and/or if there were errors made in recording dates of entry or exit.

On the other hand, the systematic recording of TCN travel movements could also be of value in demonstrating the consistency of travel history with the rules and requirements.

The basic provisions for data protection and protection of fundamental rights and privacy would need to be similar to those of the VIS Regulation plus provisions relating to the entry/exit information. However, the data collected on TCN not requiring visas would be less extensive than that given by visa applicants and hence issues of data protection would be slightly less challenging in this case. The rights to appeal in circumstances of errors occurring and forced overstaying would need to be ensured. At the same time given the large numbers of new travellers affected and the new requirement for them to provide biometric information the data protection and appeals mechanisms would need to be visible and evident.

The Registered Traveller Programme open to TCN would also pose data protection challenges. The vetting process might involve the collection of personal information over and above that required to obtain a visa or enrol as a TCN not requiring a visa.

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[52] Road passengers in private vehicles would not normally give such information

At the same time the Registered Traveller Programme would be voluntary. Data protection provisions including the right of access to personal information that had been used to inform refusals of applications would be appropriate. In the same vein the Registered Traveller Programme in this sub policy option could include the requirement of authorities to provide the reasons for refusal and the opportunity for applicants to appeal against refusal.

Minimum standards for the Registered Traveller Schemes would itself define the minimum standards for data protection and identify the most appropriate means of achieving these. Minimum standards would also include procedures on authorities providing reasons for refusal, access by the applicant to the information used to inform such refusals and the opportunity to appeal against refusal. Particular consideration would need to be given to the use and transmission of biometric data. Limitation on the access to the information, although provided voluntarily, would nevertheless be extremely important.

7. **MONITORING AND EVALUATION**

The Commission shall ensure that systems are in place to monitor the functioning of the entry/exit system and the Registered Traveller Programme against the main policy objectives. Two years after these systems start operations the Commission should submit to the European Parliament and the Council a report on the technical functioning of the systems. Moreover four years after the entry/exit system and the Registered Traveller Programme start operations the Commission should produce an overall evaluation of the systems including examining results achieved against objectives and assessing the continuing validity of the underlying rationale and any implications of future options. The Commission should submit the reports on the evaluation to the European Parliament and the Council.

Monitoring and evaluation indicators could be in particular:

- **Entry/exit:**

– Number of entries on the system;

– Numbers of 'registered' persons identified at border (terrorists, cross-border criminals etc.);

– Numbers of illegal immigrants identified at border (excl. 'registered' persons and overstayers);

– Number of alerts on overstayers;

– Number of incorrect alerts on overstayers;

– Numbers of alerts leading to apprehensions;

– Numbers of overstayers that have been given permission to work legally;

– Average time of enrolment for visa-exempt TCN;

– Processing time at the border crossing points;

– Overall time needed to cross an external border;

– System availability rate;

– Error rates e.g. Failure to Enrol (FTE) rates, false matches, etc.

- **Registered Traveller Programme**

– Number of entries on the system;

– Numbers of persons on the programme (TCN and EU citizens);

– Average time of enrolment;

– Processing time at the border crossing points;

– Overall time needed to cross an external border;

– System availability rate;

– Error rates e.g. FTE, false matches, etc.;

– Border guard resources replaced by RTP.

ANNEXES

Annex 1   Glossary

Annex 2   Case studies and key lessons

Annex 3   Databases and systems at EU level

Annex 4   Statistics

ANNEX 1

GLOSSARY

The following terms have been used in this report.

Automated Border Control	A system that enables the automated verification of travellers' identity without the intervention of border guards.
	A document reader electronically reads the biometrics included in the travel documents or stored in a system or database and compares them against the biometrics of the passengers.
	Passengers can be checked against 'watch' lists in an automated fashion if necessary.
Bona fide	(From Latin) genuine, real or legal; not false: for bona fide travellers, refer to Registered Traveller Programme and Scheme definition below
Border Control	Border Control means the activity carried out at a border, in accordance with and for the purposes of the Schengen Borders Code, in response exclusively to an intention to cross or the act of crossing that border, regardless of any other consideration, consisting of border checks and border surveillance including risk analysis and crime intelligence.
Biometrics	Biometrics are "unique, measurable characteristics or traits of a human being for automatically recognising or verifying identity." (OECD, 2004)
	The primary purposes of biometrics are to allow for:
	▪ Verification (also called authentication) or "confirming identity" (ICAO, 2003a): a one-to-one match is intended to establish the validity of a claimed identity by comparing a verification template to an enrolment template.
	▪ Identification (also called recognition) or "determining possible identity" (ICAO, 2003a): a one-to-many matches is intended to check the biometric characteristics of a person against an existing enrolee dataset (e.g. check against a watch list, prevention of multiple enrolments).

Enrolment	Enrolment is the process of collecting data from an individual for registration in the Registered Traveller Programme, determining programme eligibility and issuance of membership and optionally token.
Entry/exit system	An entry/exit system: • registers the entry and exit of individuals in a database or system, • generates automated alerts when the legal entitlement of an individual to stay in the territory has expired and there is no record in the system that he/she has left the country.
Overstayers	Persons that have entered the territory legally (i.e. with a valid travel documents and/or visa) but have remained in the territory beyond the period they were entitled to stay
Registered Traveller Programme	Registered Traveller Programmes facilitate border crossing procedures for voluntary participants. These users have previously enrolled in the system by providing information including biometric identifiers. The passengers are checked against 'watch' lists to make sure that they are not considered to be a threat to public policy, internal security, public health or international relations of any of the Member States. Other criteria may be imposed. At airports with Registered Traveller Programmes, individuals undergo a biometric verification that allows automated check-in or out. These systems tend to use different types of biometric technologies (OECD 2004)
Vetting	Vetting refers to process of adjudicating an applicant to determine programme eligibility.

ANNEX 2

CASE STUDIES AND KEY LESSONS

Entry/exit systems

Four existing systems were assessed in order to find key lessons and possible best practises; The United States Visitor Status Indicator Technology (US-VISIT) system, Malaysia Autogate and the entry/exit systems in Finland and Estonia. The Japanese Ministry of Justice is introducing a biometric border control program for all non-Japanese citizens (with some small exceptions) from November 2007. This is being introduced as a measure for preventing terrorism and illegal immigration. When entering the country, all non-Japanese citizens will have their photograph taken using a digital camera and two fingerprints captured using a LiveScan device. This is done by an officer at a border control desk and is in addition to the usual immigration procedures at the border, including inspection of travel and immigration documents and questioning by the officer.

Entry/exit systems have been adopted with the view of tackling overstayers and preventing terrorists and serious criminal to enter the territory of a country. However, their implementation is particularly challenging. The entry element has generally been prioritised over the exit.

In the US the exit element has not yet been fully implemented. However, there have been some biometrics exit pilots in air borders, and there are plans for thorough implementation of biometrics exit registration at air and sea borders[53].

In Finland, the exit registration has been implemented selectively, for example only when it is possible without disrupting border crossings.

Some benefits have been achieved by the systems in terms of detecting forged or stolen documents at entry (when biometrics are used). In US, over the period 2003-2007, 14,000 persons were referred to the immigration enforcement unit, of which 315 (2.25%) were arrested.

Some minor benefits have been achieved in preventing criminals and serious criminals to enter the territory. In the US, the entry system enables to check the identity of the travellers against several databases of wanted person, known or suspected terrorists and sexual offenders. A total of 1,500 people were rejected at the border (but it is not clear how many of them could be classified as serious criminals or terrorist). Information on how many terrorists were rejected at the border is not available.

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[53]   At the moment the idea of having biometrics exit points at land borders has been postponed.

In order to be effective, efficient and reliable, an entry/exit systems need to satisfy all these conditions:

- The system has to be implemented at all types of borders (air, sea, land). In the absence of a thorough implementation at all types of borders the systems may displace the movements of would-be overstayers, criminals and terrorists towards those borders and entry points in which the system is not in place.

- The exit element needs to be fully operational. The entry element is beneficial for deterring, detecting and stopping serious criminals, however, if the exit element is not fully operational the system does not help to identify, sanction and deter overstayers.

- It should use biometrics to verify people's identities and detect forged or stolen documents.

- It should have an automated enrolment and search facility to check people against overstayers lists or watch lists of criminals and terrorists and generate alerts.

- They should generate automated alerts to identify overstayers.

- The information on overstayers should be passed on to responsible law enforcement authorities.

- Information on overstayers should be used to detect them, and to impose a sanction as a fine.

- They may or may not have automated gates.

Automated Border Control

Two existing systems were assessed in order to find key lessons and possible best practises; Smartgate in Australia and e.channel in Hong Kong.

The main rationale of automated border control systems has been to improve the accuracy and efficiency of border controls. The main elements are:

- Enabling the accurate verification of travel documents and identities with biometrics checks. Automated border controls have a positive effect on deterring forged or stolen passports and improving identity verification.

- Increasing border efficiency by allowing border guards to focus on those people that have not enrolled into the scheme. However, this benefit can be achieved only if a significant number of travellers have registered for the systems (e.g. Hong Kong).

- Registration and pre-screening of travellers are not necessary. The system is just about identity verification. In the case of Hong Kong the system is open to all Hong Kong nationals in possession of a biometric travel document. In the case of Smartgate the system is open to all travellers holding an Australian e-passport and other ICAO-compliant e-passport.

Automated Border Control processes normally consist of the following: Fingerprint matching would be used in conjunction with an automated gate and kiosk. The traveller enters the automated gate area, possibly by presenting their passport in order to open a door that closes behind them once they have entered (to ensure only one passenger uses the gate at a time). The kiosk prompts the traveller to present the e-passport for scanning (visual and electronic) and is prompted to present one or two fingerprints for scanning. The fingerprint image is captured and the system converts both the captured image and the image stored on the e-passport into templates and attempts to match them, according to pre-determined thresholds. If a good match is achieved, a second gate opens and the traveller is allowed to cross the border. If there is not a good enough match, or any other problem occurs, the gate does not open and the traveller is directed for processing by a border guard.

Registered Traveller Programme

Six existing systems were assessed in order to find key lessons and possible best practices; Privium in Netherlands, Pegase in France, Iris (which is part of the e-borders strategy) in the United Kingdom, Nexus in Canada/the United States of America, ABG in Germany and APEC Business Travel Card. For example, Privium aims at facilitating the airport's most frequent users (around 1% of the traveller population responsible for around 10% of the total traveller movements). Membership in the programme is open to citizens with passports from the European Economic Area and Switzerland, namely to all EU Member States, Norway, Iceland, Liechtenstein and Switzerland. Privium currently has 36,000 members and it is estimated that it registers about 600 new members per month.

The essential elements of Registered Traveller Programmes are:

- Ensuring that registered travellers (RT) do not present a risk in terms of illegal immigration or internal security. This is generally done by:

(1)   Undertaking a risk assessment prior to the registration. For instance people are checked against watch lists and other police databases. Biometrics may also be collected for undertaking security searches in police databases, (i.e. fingerprints are collected, stored and used to run security checks in US and Canada, Germany and France).

(2)   Restricting the eligibility of participants. For instance, in France and the Netherlands only EU and Swiss nationals can participate; in the APEC countries the scheme is open only to business people that are frequent flyers and national of countries participating into the scheme.

(3)   Eligibility might be extended to non-nationals providing that certain security conditions are met. For example in the UK, permanent residents, visa holders and work permit holders are eligible to enrol in the Iris programme. Participants to the APEC business Card are checked against watch lists of all participant countries.

- Ensuring faster border checks. This is done by creating automated, self-service kiosks and creating separated lanes. However, borders checks takes approximately the same time that manual checks, the main advantage of RT is shorter queues because less people are part of the system. When the RT is applied to TCN, there are additional benefits for participants as they can go through a fast track immigration process (i.e. in ABTC scheme visa holders go through a faster immigration interview assessment).

- Ensuring the integrity of border checks by undertaking random checks.

- Verification of travellers' identities with biometric checks. All the schemes use biometrics, even if there is a great deal of variation on the type of biometrics used (i.e. iris in UK and the Netherlands, fingerprints in France).

ANNEX 3

DATABASES AND SYSTEMS AT EU LEVEL

Databases containing information on potentially dangerous people, visa and asylum applicants have been set up and/or are being developed.

SIS

The Schengen Information System (SIS) is a computer network for the collection and exchange of information relating to immigration, policing and criminal law for the purpose of law enforcement and immigration control. SIS was established after the 1990 Schengen Convention for the implementation of the 1985 Schengen Agreement and became operational in 1995. The system applies to Member States that fully participates in the Schengen acquis.

The main categories of data contained in the SIS are:

- Persons wanted for arrest, extradition and for transfer in the context of the European Arrest Warrant and to be placed under surveillance or subjected to specific checks;

- Third country nationals to be refused entry into the Schengen territory;

- Missing persons (minors and adults);

- Witnesses and persons required to appear before the judicial authorities;

- Person or vehicles to be put under surveillance or for specific checks;

- Certain categories of objects (e.g. stolen identity cards, vehicles, firearms, bank notes);

The names of persons in the above categories can be introduced into the SIS by each Schengen State. The Schengen States are the owners of the data they introduce into the SIS and bear the responsibility for their legality and accuracy.

The SIS can be consulted by police, border police, customs and partially by authorities responsible for delivering visas and resident permits. It is up to each Member State to decide which national agencies are to have access to some or all categories of SIS alerts.

The SIS enables the users to check persons and objects both at external borders and within the territory of the Schengen States. The SIS allows the law enforcement authorities to know if a person is wanted and why, what priority action is to be taken and if the person is violent and armed.

Since 1995 more than 17 million records have been created on the SIS. The vast majority of records concern lost or stolen items, such as identity documents. Since 2005 yearly statistics on the SIS operations have been published, but without giving details relating to different Member States, as these are considered 'sensitive national data'. Figures from 2007 indicated that[54]:

- More than 13 million records have been created on stolen identity documents (passports, identity cards, driving licence);

- More than one million records have been created on wanted persons (894,776 wanted persons plus 312,052 aliases);

- The vast majority of wanted people are third-country nationals who should be denied entry under article 96;

- Over 33,000 people have been placed under 'discreet surveillance' and 7 to be checked.

The SIS currently stores only alphanumeric data (letters and numbers), comprising (as regards individuals) data on[55]:

- names, including aliases;

- sex and "objective physical characteristics";

- date and place of birth;

- nationality;

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[54]   Council document 6178, 13.22007.
[55]   Article 94(3) of the Schengen Convention.

- whether the persons are armed or violent;

- the reason for the alert; and

- the action to be taken.

Very often these details are not enough to give the authorities the information they need, and thus a supplementary system with extra information has been created since SIS became operational.

Each Member State holds this supplementary information on persons who are the subject of its alerts on the SIS in a national data bases known as SIRENE (Supplementary Information Request at the National Entry). Information contained in SIRENE databases is accessible, upon request, to law enforcement agencies in all Member States, as set out by the SIRENE Manual[56].

With the European enlargement, the SIS has proved insufficient, and SIS II is being developed.

SIS II has been designed to function in an enlarged Europe, but also to deal with new challenges and use biometrics to verify people's identity. SIS II is being developed to contain new functions, such as new categories of subjects, and new types of data such as biometrics. There is also the possibility that SIS II may be linked to other European databases, such as VIS. SIS II should provide for the following new functions:

- The addition of new categories of alerts;

- The addition of new categories of data, including 'biometric' data;

- The interlinking of alerts;

- Widening access to the SIS. For example, the national members of Eurojust, the EU prosecutors' agency, which will have power to access alerts concerning extradition, missing persons, wanted persons and alerts on objects[57];

- A shared technical platform with the Visa Information System (VIS).

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[56] COM(2001) 720 and revised manual OJ L 317, 22.9.2006.
[57] Under SIS Eurojust can only access alerts concerning extradition and wanted persons.

In 2004 a Council Regulation and in 2005 a Council Decision were passed to introduce some new functions to SIS II for the fight against terrorism[58].

On 20th December 2006 two Regulations were approved on the establishment, operation and use of SIS II[59].

VIS

The Visa Information System (VIS) is a system for the exchange of visa data between Member States that was initially put forward in 2004[60]. All functionalities of VIS operate on applications or visa decisions attached to applications. Visas are always issued as a result of an application in the system. After a first registration, an application can be amended, until a decision is made whether a Schengen visa should be issued or not. After visa issuance further decisions can take place, for example, an issued visa can be revoked due to bad behaviour of the traveller in the Schengen area, or a visa can be extended. VIS supports the storage, maintenance and retrieval of all this information.

The main objectives of the VIS are:

- to facilitate the visa application procedure;

- to prevent the bypassing of the criteria for the determination of the Member State responsible for examining the application;

- to facilitate the fight against fraud;

- to facilitate checks at external border crossing points and within the territory of the Member States;

- to assist in the identification of any person who may not, or may no longer fulfil the conditions for entry to, stay or residence on the territory of the Member States;

- to facilitate the application of Regulation (EC) No 343/2003;

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58   Council Regulation 871, 28.4.2004.
59   Regulation (EC) No 1987/2006 and Regulation (EC) No 1986/2006.
60   Council Decision (EC) 512, 8.6.2004.

- to contribute to the prevention of threats to the internal security of any of the Member States.

According to the text of the draft VIS Regulation agreed by the European Parliament and Council on 14 May 2007, the VIS will store personal data from the VISA applicants:

- Data on the applicant (i.e. name, address, occupation);

- Data on the visa application process (date and place of the application, visas requested, issued, refused, annulled, revoked or extended);

- Biometrics (photographs and fingerprints).

Police authorities from Member States and Europol will have a restricted and indirect access to the VIS data. Each Member State will have to nominate an authority responsible for controlling police access to the database and the police will have to supply evidence that their query is necessary for criminal investigations. However, in case of emergencies the police can put a more direct query on the VIS.

Transfer of data to third countries or international organisations may take place only in an exceptional case of urgency and only for the purpose of the prevention and detection of terrorists' offence and serious crime offence and with the consent of the Member State that entered the data. Furthermore, a permanent Management Authority will be responsible for the VIS database and visa application will be stored for a maximum of five years.

EURODAC

Eurodac is a fingerprint database that stores and compares the fingerprints of asylum applicants and illegal immigrants and allows Member States to determine the State responsible for examining an asylum application according to Dublin II Regulation. The EURODAC central unit is responsible for operating a computerised central database for comparing fingerprints, an automated fingerprint identification system (AFIS) and a secure communication system for data transmission from and towards the national units (National Access Points) in Member States.

Data collected for any asylum applicants over 14 years of age are:

- Fingerprint and control images;

- Date of the application;

- The Member States where the asylum application was filled;

- The gender of the applicant.

Data are collected for:

Category 1: data of asylum applications. Fingerprints (full 10 fingerprints and 4 control images) of asylum applicants are sent to the Central Unit for comparison against fingerprints of other asylum applicants who have previously lodge their application in another Member State. The data will also be compared against the 'category 2' data. These data will be kept for 10 years. Data should be erased when an individual obtains the nationally of one of the Member States.

Category 2: data of aliens apprehended in connection with irregular crossing of an external border and where not repatriated. These data (10 fingerprints and 4 control images) are sent to the Central Unit for storage only, in order to be compared against data of asylum application submitted subsequently to the Central Unit. These data are kept for 2 years and are deleted if the individual received a residence permit, leave the territory of a Member State or obtain the nationality of one of them.

Category 3: data of aliens found illegally present in a Member State. These data are not stored but are searched against the data of asylum applicants stored in the central database. The transmission of this category is not mandatory but optional for Member States.

The Central unit can transmit three types of 'hits':

- Category 1 against category 1 hit. This gives an indication of the secondary movements of asylum seekers in the EU.

- Category 1 against category 2 hit. It gives information on whether an asylum applicant applies in the same MS he/she has been apprehended or in a different MS.

- Category 3 against category 1 hit. It gives indications as to where illegal immigrants first applied for asylum before travelling to another MS.

In 2006, EURODAC processed:

- 187,223 fingerprints of asylum seekers (category 1), down by 20% compare to the previous year,

- 25,162 fingerprints of people crossing the borders irregularly (category 2), increased by 36% from the previous year, and

- 46,299 fingerprints of people apprehended while illegally residing on the territory of a Member State (category 3). This figures has increased by 15% from the previous year, demonstrating a growing interests from Member States to make use of this search possibility.

The increase of category transaction may be due to the fact that Member States have completed the installation of fingerprint machines at their external borders.

EURODAC data also provide information on multiple asylum applications. In 2005, 16% of aliens applying for asylum had already lodged one or more applications in the same Member State or in another Member State. Out of a total of 187,223 asylum applications, 31,363 were 'multiple applications". See Table 1 for a comparison with year 2004 and 2006.

Table 1 EURODAC information on multiple applications.

Year	Number of asylum applications recorded by EURODAC (Category 1)	At least one asylum application before (in the same country or in another Member State)
2004	246,902	17,287
2005	232,205	31,307
2006	187,223	31,636

Source: The third EURODAC annual report, 2006[61].

Currently the existing systems are not fully exploited and present some shortcoming such as:

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[61]   SEC(2006) 1170.

- Some categories of alerts in the SIS, such as alerts issued for discreet surveillance or specific checks are used in a limited and heterogeneous way. Besides the common databases, many Member States maintain separate lists for the same purpose (e.g. refusal of entry, dangerous people) possibly duplicating efforts[62].

- The number of EURODAC category 2 transactions (fingerprints of aliens apprehended crossing illegally the external borders) remains surprisingly low, especially in some Member States[63].

- There is a relatively high rate of rejected EURODAC transactions (6.12%). This does not depend on technology or system weaknesses but on the low quality of the fingerprints images submitted by Member States, to human error or to the wrong configuration of Member States' equipment. Specific training to EURODAC national operators and purchase of state-of-the-arts equipment, such as live scanners, has been recommended to reduce rejection rate[64].

- There is limited possibility to use data for internal security purposes. However, the Commission intends to explore the possibility to extend the scope of EURODAC with the view to use the data for law enforcement purpose and as a means to contribute to the fight against illegal migration[65].

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[62]   COM(2005) 597.
[63]   COM(2007) 299 and SEC(2006) 1170.
[64]   COM(2005) 597. The Commission will organise training course for Member States to improve the quality of data. In addition, Member States are encouraged to use European findings to improve scan equipments.
[65]   COM(2007) 299.

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ANNEX 4

STATISTICS

CIREFI (Centre for Information, Discussion and Exchange on the crossing of Frontiers and Immigration) was set up to assist Member States in effectively studying and preventing illegal immigration, and in facilitating exchange of data across the EU. Figures are submitted by Member States and are coordinated by CIREFI Unit within Eurostat.

CIREFI data have to be taken with caution. Figures are submitted by Member States, but sometimes the figures are not submitted for all categories or submitted only partially. In addition, CIREFI data do not make a distinction between the number of rejected asylum seekers that were removed and the number of undocumented and irregular migrants. The data on removals also include the number of non-EU person that were removed for other reasons (e.g. non-EU convicted for criminal offences).

Table 1: Number of aliens refused at the external borders 2003-2006.

Country	2003	2004	2005	2006
Belgium	4,143	2,030	1,661	1,868
Bulgaria	5,917	6,395	6,561	5,765
Czech Republic	31,166	37,534	6,486	3,067
Denmark	658	367	333	210
Germany	42,072	30,155	15,012	19,857
Estonia	3,056	2,308	1,924	2,655
Greece	17,300	14,338	11,399	10,729
Spain*	706,081	602,262	598,510	630,305
France	31,317	32,865	35,049	34,308
Ireland	5,826	4,763	4,807	5,833
Italy	24,003	24,003	19,336	20,266
Cyprus	3,384	2,540	2,018	1,825
Latvia	5,151	2,267	777	1,017
Lithuania	5,516	4,690	3,886	3,332
Luxembourg	n.a	n.a	n.a	n.a
Hungary	21,263	23,823	21,159	23,015
Malta	805	607	262	264
The Netherlands	9,382	n.a	n.a	n.a

Austria	22,305	24,803	23,295	27,682
Poland	44,380	65,403	41,296	39,812
Portugal	3,695	4,327	4,146	3,590
Romania	55,950	61,818	51,082	48,210
Slovenia	38,589	28,410	28,401	23,518
Slovakia	18,201	19,896	7,203	2,897
Finland	2,910	1,533	951	1,033
Sweden	1,601	557	813	668
United Kingdom	n.a	n.a	n.a	n.a
EU 27 TOTAL	**1,104,671**	**997,694**	**886,367**	**911,726**

Source: CIREFI 2003-2006

* The high number for Spain is due to the number of people refused at the borders of Ceuta and Melilla, the two Spanish enclaves in North Africa.

Table 2: Number of irregulars refused at the border by third-country nationality.

Third Countries	**Refused aliens in EU27**			
	2003	**2004**	**2005**	**2006**
Morocco	**636,371**	**597,957**	**591,582**	**619,178**
Mauritania	**64,150**			
Romania	**32,594**	**30,092**	**34,537**	**48,594**

Moldova	**18,584**	**20,204**	**37,893**	**40,184**
Ukraine	**26,164**	**36,863**	**40,130**	**35,797**
Poland	**31,779**			
ex-Yugoslavia (*)	**28,432**	**30,182**		
Hungary	**24,093**	**19,247**		
Russia	**23,847**	**18,640**	**11,745**	**9,574**
Bulgaria	**23,670**	**22,010**	**23,030**	**18,053**
Philippines		19,661		
Turkey	16,300	16,300	10,427	8,619
Serbia & Montenegro (*)			12,005	13,430
Belarus			12,146	12,096
Bolivia				8,557
China			8,547	
Others	178,687	186,538	104,325	97,644
TOTAL	**1,104,671**	**997,694**	**886,367**	**911,726**
Top 10 total	**925,984**	**811,156**	**782,042**	**814,082**
% of TOTAL	83.82	81.30	88.23	89.29

Source: CIREFI 2003-2006

Note 1: *) Since February 2003 name changed to "Serbia & Montenegro"

Note 2: Figures are not completed.

Table 3: Number of irregulars or illegal immigrants apprehended on the EU territory by Member States.

Countries	2003	2004	2005	2006
Belgium	22,164	20,606	18,400	15,670
Bulgaria	454	877	1,190	1,238
Czech Republic	23,142	18,675	11,606	7,536
Denmark	1,666	1,414	1,064	867
Germany	26,493	22,558	20,270	21,635
Estonia	1,716	1,549	2,703	2,069
Greece	47,915	42,834	58,836	77,030
Spain	55,164	52,798	41,939	95,765
France	54,092	55,283	62,468	67,134
Ireland	n.a	n.a	n.a	n.a
Italy	59,535	61,024	83,809	92,029
Cyprus	3,794	2,535	1,281	631
Latvia	518	366	254	247
Lithuania	502	406	863	1,156
Luxembourg	n.a	n.a	n.a	n.a
Hungary	509	488	17,373	15,622
Malta	945	1,723	2,416	2,185
The Netherlands	12,189	10,883	10,803	11,939

Austria	43,448	36,879	37,934	37,692
Poland	8,841	8,191	7,045	6,396
Portugal	17,886	16,020	17,223	23,564
Romania	4,975	4,981	4,940	4,809
Slovenia	4,214	4,214	4,971	4,331
Slovakia	10,257	8,571	4,916	4,035
Finland	1,588	2,949	2,757	1,689
Sweden	27,163	19,877	14,447	20,926
United Kingdom	n.a	n.a	n.a	n.a
EU 27 TOTAL	**429,170**	**395,701**	**429,508**	**516,195**

Source: CIREFI 2003-2006

Table 4: Number of irregulars or illegal immigrants apprehended on the EU territory by country of origin.

Third Countries	Apprehended aliens in EU27			
	2003	2004	2005	2006
Romania	**38,894**	**43,839**	**63,172**	**84,009**
Albania	**41,846**	**37,025**	**52,461**	**58,738**
Morocco	**35,048**	**33,942**	**34,092**	**40,920**
Ukraine	**34,082**	**29,289**	**26,964**	**22,025**
Iraq	**13,518**		**14,351**	**22,527**
Senegal				**19,775**
Russia	**17,991**	**17,346**	**13,937**	
Brazil			**12,009**	**17,594**
Algeria	**14,182**	**14,634**		**14,019**
ex-Yugoslavia (*)	**13,952**			
Pakistan				13,654
Bulgaria	13,473	11,914	11,412	
Serbia & Montenegro (*)			13,101	11,860
China	13,020	11,019		
Moldova		11,989	12,712	
Turkey		11,185		
Others	193,164	173,799	175,297	211,074

TOTAL	**429,170**	**395,981**	**429,508**	**516,195**
Top 10 total	**236,006**	**222,182**	**254,211**	**305,121**
% of TOTAL	54.99	56.11	59.19	59.11

Source: CIREFI 2003-2006

*) Note: since February 2003 the name changed to Serbia&Montenegro

Table 5: Number of removed aliens by Member States.

Country	2003	2004	2005	2006
Belgium	9,996	9,647	10,302	9,264
Bulgaria	814	1,271	1,608	1,501
Czech Republic	2,602	2,649	2,730	1,228
Denmark	3,100	3,093	2,225	1,986
Germany	30,176	26,807	19,988	15,407
Estonia	171	101	60	91
Greece	40,930	35,942	51,079	54,756
Spain	26,757	27,364	25,359	33,235
France	11,692	15,672	18,120	21,271
Ireland	n.a	n.a	n.a	n.a
Italy	31,013	27,402	24,001	16,597
Cyprus	3,307	2,982	3,015	3,222
Latvia	375	234	162	141
Lithuania	846	306	182	168
Luxembourg	n.a	n.a	n.a	n.a
Hungary	4,804	3,980	4,348	3,057
Malta	847	680	962	781
The Netherlands	23,206	17,775	12,386	12,669
Austria	11,070	9,408	5,239	4,904

Poland	5,879	6,042	5,141	9,272
Portugal	2,798	3,507	6,162	1,079
Romania	500	650	616	680
Slovenia	3,209	2,632	3,133	3,173
Slovakia	1,293	2,528	2,569	2,185
Finland	2,773	2,775	1,900	1,410
Sweden	7,355	11,714	8,122	3,793
United Kingdom	21,380	n.a	n.a	n.a
EU 27 TOTAL	**246,893**	**215,161**	**209,409**	**201,870**

Source: CIREFI 2003-2006

Note: figures cover both voluntary and forced return.

Legal Migration

Table 6: Third country nationals legally living in EU25 in 2003.

Country	Total Non-EU Population	% Non-EU Population
Belgium	274,000	2.64
Czech Republic	78,800	0.77
Denmark	204,800	3.8
Germany	4,794,300	5.8
Estonia	267,500	19,72
Greece	687,700	6.25
Spain	2,193,400	5.2
France	2,060,800	3.45
Ireland	135,200	3.14
Italy	1,168,500	2.04
Cyprus	33,300	4.65
Latvia	28,900	1.25
Lithuania	32,500	0.93
Luxembourg	21,900	4.88
Hungary	112,700	1.11
Malta	2,700	0.67
The Netherlands	477,900	2.94
Austria	551,100	6.81

Poland	685,700	1.79
Portugal	183,400	1.8
Slovenia	43,300	2.17
Slovakia	91,300	1.7
Finland	75,500	1.39
Sweden	269,100	3
United Kingdom	1,719,600	2.89
Total	**16,190,900**	**3.55**

Source: Eurostat estimate

Note: EU nationals include citizens from EU10 even though data refers to a year before 2004 accession.

Table 7: Resident permits breakdown for selected countries.

Member State	Most important categories for granting residence permit for selected MS (percentage) in 2003			
	Family reunification	Study	Employment	Others
Austria	43.1	8.2	44.6	4.2
Denmark	21.3	27.6	22.2	28.9
Estonia	29.9	10.7	13	46.3
France	53.2	27.1	4.8	14.9
Italy	31.4	2.8	55.1	10.7
Latvia	50.0	7.1	26.9	15.9
Lithuania	39.6	8.4	6.2	45.7
Hungary	14.6	14.1	59.5	11.8
Romania	12.6	29.5	26	31.9
Sweden	60.8	13.7	25.5	0
United Kingdom	47.1	n.a.	21.2	31.7
Average	36.7	15.0	28.0	22.0

Source: Elaboration from Eurostat (Annual Report on Asylum and Migration 2003).

Note: Methodology of residency permit data collection varies to great extent from Member States to Member States. For example, some Member States have provided the stock of permit, some other only the flows, some include seasonal workers and other do not include seasonal workers. For this reason, only percentages are given, to provide an indication of the order of scale between the different residence permit, instead of absolute numbers.

Table 8: Estimate of annual inflows of work permit in 16 EU countries.

Member State	All work permits holders	Comments
Denmark	1,600	Figures from 2003.
Germany	165,000	Figures from 2003. Figures relate to non-EU persons arriving in Germany. The total includes multiple entries.
Spain	65,000	Approximate net estimate for 2002/2003.
France	31,200	Figures from 2003.
Ireland	16,100	Figures from 2003. New member states (EU10) are excluded.
Italy	78,800	Work permit issued to non-EU nationals in 2003 for self employment and contract work.
Latvia	2,800	Figures from 2002.
Lithuania	500	Figures from 2003.
Hungary	40,300	Figures from 2003.
The Netherlands	38,000	Figures from 2003
Poland	5,600	Estimated new permits (excl renewals) for non-EU persons in 2002.
Slovakia	1,000	Total non-EU in-flow for 2002.
Finland	13,100	Figures from 2003.
Sweden	6,700	Figures from 2002.
United Kingdom	89,200	Figures from 2003. Persons who entered the UK from abroad with a work permit in 2003. Excludes renewals and "first permissions" for those already resident in the UK.

Total	**554,900**	
EU25	**633,200**	Estimation

Source: Source: Policy Plan on Legal Immigration COM (2005) 669.

Table 9: Regularisation of illegal immigrants in selected Member States.

MS	Year	Number of regularisations	Total
Greece	1998 White Card	370,000	
	1998 Green Card	220,000	
	2001	228,000	
Greece total			**818,000**
Italy	1986-87	118,700	
	1990	235,000	
	1995-96	238,000	
	1998-99	193,200	
	2002	634,700	
Italy total			**1,419,600**
France	1981-82	121,100	
	1997-98	77,800	
France total			**198,900**
Spain	1985-86	23,000	
	1991	109,134	
	1996	21,300	
	2000	153,463	
	2001	221,083	

	2005	500,000	
Spain total			**1,027,980**
Portugal	1992-93	38,364	
	1996	31,000	
	2001	170,000	
Portugal			**239,364**
Total			**3,464,480**

Source: Policy Plan on Legal Immigration COM (2005) 669.

Visas

Table 10: Number of Schengen visa.

Total number of visa (A,B,C, VTL, D+C)	2006
Belgium	155,669
Germany	1,827,686
Denmark	73,940
Spain	733,015
Finland	570,726
France	1,898,488
Greece	578,527
Italy	1,036,531
Luxembourgh	4,780
The Netherlands	382,280
Norway	92,258
Poland	91,200
Sweden	189,331
Total Schengen	**7,634,429**
Bulgaria	404,335
Cyprus	153,486

Czech republic	589,234
Estonia	127,444
Hungary	580,317
Lithuania	420,878
Latvia	158,830
Malta	14,093
Poland	1,221,287
Slovenia	95,131
Slovakia	146,347
Total Non-Schengen	**3,911,381**
Total	**11,545,810**

Source: Council document No 10700/07 VISA 187 COMIX 556, 19.06.2007.

Note 2006: Austria, Switzerland and Romania have not submitted the information.

Table 11: Schengen types of Visa and Visa Fees.

Type of Visa	Fee to be charge (in Euro)
Airport Transit Visa (Category A)	60
Transit Visa (Category B)	60
Short Stay Visa (1 to 90 days) (Category C)	60
Visa with limited territorial validity (LTV)	60
Visa issued at the border (Category B and C)	60 (this Visa might be issued free of charge)
Group Visa (Category A, B and C)	60 (per person, 5 – 50 persons)
National Long Stay Visit (Category D)	The amount shall be fixed by Member States, who may decide to issue these visas free of charge.

Source: Council Decision (EC) No 440, 1.6.2006 amending the Annex 12 of the Common Consular Instructions and Annex 14a to the Common Manual on the fees to be charged corresponding to the administrative costs of processing visa application.

Table 12: List of States whose nationals are exempted by Schengen Visa.

States whose nationals are exempted from Schengen Visa
Australia and New Zealand
Canada

Croatia, Andorra, Monaco, San Marino and the Holy See
Japan, South Korea, Malaysia, Brunei, Singapore, Israel, Hong Kong, Macao
Latin America States (except nationals from Colombia, Peru, Ecuador, Bolivia, Guyana, Suriname)
United State

Source: Council Regulation (EC) 539/2001, recently amended by the Regulation (EC) 1932/2006.

Border crossing points and border crossings

Table 13: Official Border Crossing Points of the Schengen and future Schengen States by Member States and type of borders.

Member States	Land Borders	Sea Borders	Air Borders	Total
Belgium	2	6	6	14
Czech Rep.	0	0	19	19
Denmark	0	133	38	171
Germany	0	119	131	250
Estonia	7	39	7	53
Greece	11	53	29	93
Spain	4	32	31	67
France	9	42	108	193
Italy	0	108	50	158
Cyprus	0	7	2	9
Latvia	16	9	4	29
Lithuania	29	2	4	35
Luxembourg	0	0	1	1
Hungary	27	1	10	38
Malta	0	3	4	4
Netherlands	0	12	9	21

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Austria	0	2	70	72
Poland	29	19	20	68
Portugal	0	22	8	30
Slovenia	57	3	3	63
Slovakia	4	1	8	13
Finland	26	66	24	116
Sweden	0	60	31	91
Iceland	0	25	5	30
Norway	1	76	25	102
Romania	23	10	13	46
Bulgaria	11	11	5	27
Total	**256**	**871**	**665**	**1792**

Source: List of border crossing points referred to in Article 2(8) of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code).

Notes:

The table does not include the external border crossing points between the 'new' and 'old' Schengen States, and between the Member States and Switzerland/Liechtenstein, on the assumption that by the time an entry/exit system would be established, the abolition of internal border controls pursuant to the Schengen Convention would be fully applicable to these States.

Both river and sea ports are included in sea borders.

Both airports and aerodromes are included in air borders.

Denmark: The mainland of Denmark has 106 ports, the Faroe Islands have 11, and Greenland has 18. As for airports, the mainland has 24, the Faroe Islands have 1, and Greenland has 13.

Cyprus: the de facto land borders within the country are not listed.

Latvia: 4 external land border crossing points are open to local border traffic only.

Slovenia: the land border crossing points are listed as 25 land borders, 10 interstate borders and 22 land borders reserved for local border traffic.

Finland: most of the land border crossing points (17 of them) are open for limited use only and that traffic at these points 'consists almost exclusively of timber freight'.

France: land border crossing points with UK are: (1) Gare de Paris/Nord-London Waterloo; (2) Gare de Lille Europe – London Waterloo; (3) Gare de Frethun- London Waterloo; (4) Cheriton- Coquelles (5) Gare-de-Chessy-Marne-la-Valle (6) Gare d'Avignon. Border with Andorra: (7) Pas de la Case

Table 14: Number of trips made by EU resident populations outside the EU in 2005.

Country	Number of trips made outside the EU in 2005 (Eurostat)*
Belgium	1,751,947
Bulgaria	4,087,974
Czech Republic	1,877,739
Denmark	1,557,080
Germany	24,626,901
Estonia	131,291
Ireland	892,000
Greece	711,925
Spain	3,294,345
France	9,659,104
Italy	5,443,283
Cyprus	245,080
Latvia	297,539
Lithuania	739,950
Luxembourg	180,000
Hungary	1,615,061
Malta	n.a

Netherlands	2,976,000
Austria	2,551,274
Poland	1,059,000
Portugal	n.a
Romania	n.a
Slovenia	1,818,103
Slovakia	1,002,598
Finland	1,011,000
Sweden	550,000
United Kingdom	12,250,869
Total	**80,330,063**

Source: own calculation from Eurostat database on tourism

Notes*****:

Data are provided by Member States on the basis of their own estimates. Data for some countries are not available.

Data are based on the number of trips made by EU 27 resident population (every person living in that country for more that 12 months).

Table 15: Number of trips made by Non-EU to EU 27 in 2005.

Country	Number of trips made by Non-EU to EU 27 in 2005
Belgium	1,186,471
Bulgaria	527,315
Czech Republic	1,519,292
Denmark	722,835
Germany	8,214,155
Estonia	159,682
Ireland	n.a
Greece	1,975,871
Spain	6,647,613
France	12,167,757
Italy	14,304,009
Cyprus	293,327
Latvia	141,666
Lithuania	160,729
Luxembourg	107,416
Hungary	1,029,189
Malta	119,695

Netherlands	2,711,100
Austria	3,234,749
Poland	1,156,236
Portugal	1,001,915
Romania	n.a
Slovenia	369,959
Slovakia	236,305
Finland	756,206
Sweden	2,125,176
United Kingdom	8,040,634
Total	**68,909,302**

Source: Own calculation from Eurostat database on tourism

Note:

Data are provided by Member States on the basis of their own estimates. Data for some countries are not available.

The numbers are based on the estimates of overnight stays in hotel, collective accommodation establishment or in private tourism accommodation. People staying with friends and relatives are not counted. Overnight stays are registered by country of residence of the travellers. There is no age limit (children are covered).

Table 16: Number of trips made by third country nationals not requiring visa (most important countries) into EU.

Country	Canada	US	Brazil	Japan	South Korea	Oceania	total
Belgium	43,810	292,050	15,181	111,985	15,386	37,964	516,376
Bulgaria	n.a	31,901	n.a	17,229	n.a	n.a	49,130
Czech Republic	45,439	303,641	11,652	153,980	46,850	48,896	610,458
Denmark	9,210	105,337	4,227	34,491	3,636	21,988	178,889
Germany	203,187	1,949,825	93,836	730,232	137,652	220,328	3,335,060
Estonia	3,254	19,506	450	8,066	360	3,779	35,415
Ireland	n.a	n.a	n.a	n.a	n.a	n.a	n.a
Greece	101,230	581,095	14,601	91,212	0	112,149	900,287
Spain	162,321	1,455,435	178,880	629,690	54,119	147,083	2,627,528
France	377,239	3,166,708	n.a	1,459,289	n.a	n.a	5,003,236
Italy	549,969	4,333,905	263,782	1,634,470	286,544	669,646	7,738,316
Cyprus	2,342	9,280	n.a	1,502	n.a	4,330	17,454
Latvia	2,279	17,377	168	5,732	138	3,320	29,014
Lithuania	1,625	19,561	321	8,848	372	2,315	33,042
Luxembourg	3,852	23,100	1,929	6,161	934	3,056	39,032
Hungary	18,882	174,643	n.a	112,127	n.a	20,437	326,089
Malta	3,162	13,241	227	8,380	168	7,575	32,753
Netherlands	125,700	966,900	29,300	156,900	21,900	105,100	1,405,800
Austria	69,957	539,674	n.a	277,518	57,144	129,863	1,074,156

Poland	22,051	203,696	6,935	44,631	23,928	20,219	321,460
Portugal	68,150	229,695	174,650	99,686	10,734	38,202	621,117
Romania	n.a	n.a	n.a	n.a	n.a	n.a	n.a
Slovenia	6,936	40,760	1,012	12,084	2,943	16,300	80,035
Slovakia	5,348	32,553	674	14,316	11,969	5,430	70,290
Finland	10,888	87,054	3,331	70,434	13,544	17,453	202,704
Sweden	18,093	211,550	0	56,540	8,621	24,995	319,799
United Kingdom	641,093	3,220,952	56,731	315,776	124,880	957,554	5,316,986
Total	**2,496,017**	**18,029,439**	**857,887**	**6,061,279**	**821,822**	**2,617,982**	**30,884,426**

Source: own calculation from Eurostat database on tourism

Notes:

Data are provided by Member States on the basis of their own estimates. Data for some countries are not available.

The numbers are based on the estimates of overnight stays in hotel, collective accommodation establishment or in private tourism accommodation. People staying with friends and relatives are not counted. Overnight stays are registered by country of residence of the travellers. There is no age limit (children are covered).