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NOTE

From: Presidency

To: Delegations

Subject: Smart Borders Package pilot project: draft political guidelines

Following to the meeting of the JHA Counsellors which took place on 1 December 2014 and the contributions that the Presidency has subsequently received, delegations will find below an amended Presidency note on the draft political guidelines, with a view to having them accepted by COREPER on 10 December 2014.

The proposed amendments vis-to-vis doc. 15922/14 are indicated in bold, underline for added wording and [...] for deleted wording.

I. Introduction on the proof of concept for the Smart Borders Package (SBP)

By way of introduction, the Presidency would like to recall that COREPER endorsed on 5 February 2014 the approach for the way forward on the Smart Borders Package (SBP)¹. This approach has constituted the basis, at political level, for the various stages of the work that has been accomplished since then on this matter.

¹ doc. 5828/14.

Pursuant to that endorsement, the Commission has undertaken to carry out a proof of concept, consisting of two main phases: a technical study conducted by the Commission, and a pilot project, which is to be carried out by eu-LISA in the course of 2015.

The purpose of the proof of concept is to ensure that the two co-legislators will be given an array of the best possible options and solutions from a technical and a cost-benefit points of view, as an input to the future negotiations on the SBP, in order to facilitate their decision-making in this [...] dossier.

Pursuant to the aforementioned approach, following the presentation and the discussion of the study in the Working Party, the Presidency should invite COREPER to provide political guidelines on further steps. Following the relevant proceedings in COREPER, the Commission is expected to prepare the terms of reference for the pilot project before the end of 2014, in order to enable eu-LISA to [...] **start** the pilot project as foreseen on the 1st of March 2015.

As regards the implementation of the pilot project, it is recalled that it will be carried out on the basis of Regulation (EU) No 515/2014 (the ISF Borders Regulation)¹ and in particular Articles 5(4) and 13(2)(f) thereof. The Commission's implementing Decision of 8 August 2014² entrusts the Smart Borders pilot project to eu-LISA and allocates the amount of 3,5 million euro to finance it.
[...]

Following several months of intensive work, with the active participation of the various stakeholders concerned, including experts from Member States, the Commission presented the final report on the study to the Working Party on Frontiers on 15 (main report) and on 31 October (the costs chapter) 2014. Corresponding presentations took also place in the LIBE Committee. The Working Party on Frontiers [...] **had** a fruitful [...] **discussion** [...] **on** the findings of the study at its meeting of 19-20 November 2014³, during which the Commission also made a number of suggestions with a view to submitting the file to COREPER.

¹ Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC.

² Commission implementing decision of 8 August 2014 concerning the adoption of the work programme for 2014 and the financing of the Union actions and emergency assistance within the framework of the Internal Security Fund – the instrument for financial support for external borders and visa.

³ See the relevant outcome of proceedings in docs 15031/14 and 15920/14 (to be issued).

II. Draft political guidelines

On the basis of the above proceedings, the Presidency invites delegations to consider the following draft political guidelines in relation to the envisaged pilot project:

A. The general scope of the pilot project

The pilot project should aim at testing and validating the technical options, regarding [...] border control processes and the use of biometrics, that are considered relevant for the design and functionalities of the envisaged SBP.

The pilot project should look in particular at the impact of potential technical solutions on border [...] processes in terms of both time, [...] security **and procedures**. It should at the same time allow for measuring the quality of the enrolled biometric data.

The pilot project should address the broadest possible variety of border crossing situations, looking at airport, land and sea borders, different climatological circumstances and varying traffic modalities and density.

The pilot project should, where appropriate and possible, simulate end-to-end EES and RTP processes, in order to provide comprehensive, test results while avoiding negative time and budgetary impacts.

In the light of future developments, it may be considered at a later stage if further testing is required.

The pilot project should be implemented with full respect of the applicable data protection legislation, as well as the Schengen Border Code and the VIS Regulation. In this regard, the European Data Protection Supervisor, **as well as, if necessary, national supervisory authorities,** should be [...] **involved**.

The technical testing should, as appropriate, be supplemented by qualitative research as to the experience of travellers as well as border guards [...] during the implementation of the pilot project.

The pilot project is without prejudice to the possibility for individual Member States to perform complementary testing on aspects not covered by the scope of the pilot project at their own expenses. This may in particular be relevant for matters which are specific to their national infrastructure.

B. Particular elements

The pilot project should in particular test the following aspects;

- the impact of biometrics' use on border control processes: testing different biometric identifiers for enrolment in EES (10 fingerprints in combination with facial image; 8 fingerprints in combination with facial image; 4 fingerprints in combination with facial image; facial image only); using several types of biometric devices (existing technology at border posts, last generation of fingerprint scanners, contactless fingerprint scanners, hand-held devices, Automated Border Control (ABC) gates or electronic (e-) gates). **The option of the facial image could in particular be tested in case of cruises.**
- the impact of process accelerators on border control processes: testing different options ([...] use of self-service kiosks for registering, **reading the electronic machine-readable travel documents (e-MRTD)**, enrolling and checking **of** biometrics, automation of exit checks, querying VIS using document number, **iris enrolment**). In this context, specific attention should be attached to waiting areas at land borders (introduction of pre-border checks and use of self-service kiosks).
- the utility of web-interface to carriers and travellers: assessment of a technical solution allowing carriers and travellers to retrieve the necessary information from EES and of the required security measures and data protection safeguards.
- **fall-back procedures in case of unavailability of the systems.**

Although certain delegations questioned some of the issues which the Commission has considered as having added value in being piloted, these items could be maintained within the scope of the pilot project in order to provide a more comprehensive view of possible appropriate solutions for the implementation of the SBP.

C. The implementation of the pilot project and the work that should be carried out in parallel to it

Member States should contribute to the pilot project on a voluntary basis. The Commission is invited to report regularly, in close cooperation with eu-LISA, to both the Council and the Parliament on the implementation of the pilot project and its interim findings, **which should be sufficiently detailed in particular as regards the impact of the tests have had on the border control processes.**

The pilot project's activities should be concluded by September 2015. A final report should be made available by eu-LISA in November 2015 in order to allow the Commission to submit a report on the outcome of the pilot project to Council and European Parliament by the end of 2015, in line with the COREPER approach of February 2014.

In the meantime, the Working Party on Frontiers should continue examining, in [...] **close contact** with the European Parliament, the findings of the study that are not subject to the pilot project, as well as pursue work on other policy aspects of the proposed SBP, **such as law enforcement access to the EES under appropriate conditions and guarantees, the consequences of the abolition of the stamping, or the internal organisation in Member States for implementing RTP.**

D. Further proceedings with a view to finalising negotiations on the SBP

The legislative process for the adoption of the SBP should, on the basis of the results of the pilot project and the progress made in negotiations, be continued with the aim of reaching agreement in first reading, [...] **if possible, by mid-2016.**

III. Conclusions

Delegations are invited to agree on the aforementioned draft political guidelines, with a view to having them endorsed by COREPER at its session of 10 December 2014.