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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	31 May 2018
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SEC(2018) 263 final
Subject:	REGULATORY SCRUTINY BOARD OPINION Proposal for a COUNCIL DIRECTIVE establishing an EU Emergency Travel Document and repealing Decision 96/409/CFSP

Delegations will find attached document SEC(2018) 263 final.

Encl.: SEC(2018) 263 final



EUROPEAN COMMISSION

Brussels, 31.05.2018
SEC(2018) 263 final

REGULATORY SCRUTINY BOARD OPINION

Proposal for a

COUNCIL DIRECTIVE

establishing an EU Emergency Travel Document and repealing Decision 96/409/CFSP

{COM(2018) 358 final}
{SWD(2018) 272 final}
{SWD(2018) 273 final}



EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
Ares(2018)

Opinion

Title: Impact Assessment / Emergency Travel Documents

(version of 7 March 2018)*

Overall opinion: POSITIVE

(A) Context

Every year, some EU citizens find themselves in third countries with no travel documents, and where their country of origin does not have consular representation. In such cases they can ask a consular representation of another Member State to issue them an EU Emergency Travel Document (ETD). This is uncommon, so the number of ETDs issued remains low. Nevertheless, ETDs are arguably an element of consular protection that demonstrates the value of EU citizenship and solidarity between Member States.

The current legal regime of EU ETDs remains based on an intergovernmental Decision. This is despite the fact that the Lisbon Treaty allows for a directive on coordination and cooperation measures to effect equal treatment on consular protection.

This impact assessment explores ways to revise the current EU ETDs instrument in order to align it with recent legislation on consular protection. It aims to improve enforceability, security and acceptance of EU ETDs.

(B) Main considerations

The Board considers the impact assessment to be clear and accessible to non-specialists.

The Board gives a positive opinion, with a recommendation to further improve the report with respect to the following key aspects:

- (1) The report discards options based on national ETDs without establishing why these could not deliver satisfactory results.
- (2) The options only concern the security-related elements of the proposed measures, whereas the problem description also raises issues of legal certainty, enforceability and acceptability that the options do not address.
- (3) The report does not adequately explain how the preferred option addresses stakeholder concerns regarding the current system, e.g. in terms of security.

* Note that this opinion concerns a draft impact assessment report which may differ from the one adopted.

(C) Further considerations and recommendations for improvement

(1) The report should better explain why it discards options based on the continued issuance of national ETDs to EU citizens. A more thorough assessment would add details on costs and complexity, as well as evidence of ineffectiveness of such approaches and of little support of stakeholders.

(2) The report could further substantiate the absence of choice available to tackle the issues of legal certainty, enforceability and acceptability described in the problem definition. It could elaborate on why integration of EU ETDs in the new EU framework and alignment with the Consular Protection Directive imply straightforward measures that are not subject to policy choices.

(3) The report could confirm that it covers all issues that the evaluation flagged. It could also explain why Member States that have so far expressed reservations to issue EU ETDs might support the measures in the preferred option. Notable reservations included security concerns regarding both the travel document itself as well as the process to confirm the identity of the applicant.

(4) The proposed Monitoring and Evaluation framework should identify observable success criteria and indicators for future evaluation purposes.

The Board takes note of the quantification of the various costs and benefits associated to the preferred option of this initiative, as assessed in the report considered by the Board and summarised in the attached quantification tables. The Board encourages the lead DG to provide further details in the impact assessment report on the breakdown of costs for the preferred option and on the distribution of these costs across Member States and stakeholder groups.

Some more technical comments have been transmitted directly to the author DG.

(D) RSB scrutiny process

The lead DG shall ensure that the recommendations of the Board are taken into account in the report prior to launching the interservice consultation.

The attached quantification tables may need to be further adjusted to reflect any changes in the choice or the design of the preferred option in the final version of the report.

Full title	Impact Assessment of options to improve the existing UE instrument on a European Emergency Travel Document
Reference number	2017/JUST/017
Date of RSB meeting	Written Procedure

ANNEX: Quantification tables extracted from the draft impact assessment report submitted to the Board on 7 March 2018

(N.B. The following tables present information on the costs and benefits of the Initiative in question. These tables have been extracted from the draft impact assessment report submitted to the Regulatory Scrutiny Board on which the Board has given the opinion presented above. It is possible, therefore, that the content of the tables presented below are different from those in the final version of the impact assessment report published by the Commission as the draft report may have been revised in line with the Board's recommendations.)

I. Overview of Benefits (total for all provisions) – Preferred Option		
Description	Amount	Comments
Direct benefits		
Citizens – annual costs savings from deadlines on issuance	EUR 93,000	Opportunity costs of €93/day in saved time per case. The time savings based on 1000 annual cases per year can be valued at €93,000 across all citizens.
Cost savings for accelerated document checks at EU external borders due to machine readability of the document	Quicker, more reliable processing of citizens travelling on EU ETDs at the EU borders, reduced administration	Not quantifiable – border authorities do not collect such data Beneficiaries: border authorities, citizens
Reduced hassle costs through improved acceptance of more secure document (recurrent)	Fewer rejections of citizens at EU borders resulting in reduced costs to travellers; reduced handling and compensation payments for authorities and airlines; reduced denial-of-boarding costs (lost sale) for airlines.	Not quantifiable – border authorities and airlines do not collect such data Beneficiaries: citizens, businesses (especially airlines through liability for unjustified denial of boarding)
Indirect benefits		
Improved security within the EU and at its borders	Reduction in document fraud related to poor document type (forgery, tampering, impostor, reused document blanks).	Not quantifiable – the precise increase in the level of security within the EU cannot be quantified. Beneficiaries: Citizens, public administrations, businesses.
Facilitated access to the right to equal treatment on consular protection for unrepresented EU citizens	Improved document will increase the acceptance and make the exercise of the right to equal treatment on consular protection of unrepresented citizens quicker, easier and more secure. This will in turn have a positive effect on the perceived benefits of EU citizenship.	Not quantifiable – the precise increase in the level of the perceived benefits of EU citizenship cannot be quantified. Citizens.

II. Overview of costs – Preferred option							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
Transposition of the new legislative measure	Direct costs	-	-	-	-	Negligible	-
	Indirect costs	-	-	-	-	Negligible	-
Cost of new EU ETD	Direct costs	0 – 7 Euros*	-	-	-	EUR 40,000**	EUR 8,000***
	Indirect costs	-	-	-	-	EUR 197,500 [†]	Not quantifiable ⁺⁺

* Whether the quantified cost to the administrations will be passed to individuals and the levels of potential additional support to implementation provided is not known at this stage.

** Based on the initial order of 5000 EU ETDs for stocking purposes

*** Based on the annual issuance of 1000 EU ETDs a year at 8 euro per piece estimated production cost

[†] Based on the average training costs (see table 6-2 in Section 6 of the Impact Assessment)

⁺⁺ It is likely future trainings be integrated in regular training programme of consular staff, making it harder to quantify in isolation this element