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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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Subject: COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY
OF THE IMPACT ASSESSMENT Accompanying the document
PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT
AND THE COUNCIL on establishing a framework for interoperability
between EU information systems (borders and visa) and amending Council
Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision
2008/633/JHA, Regulation (EU) 2016/399 and Regulation (EU) 2017/2226
and PROPOSAL FOR A REGULATION OF THE EUROPEAN
PARLIAMENT AND THE COUNCIL on establishing a framework for
interoperability between EU information systems (police and judicial
cooperation, asylum and migration)

Delegations will find attached document SWD(2017) 474 final.

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND THE
COUNCIL**

**on establishing a framework for interoperability between EU information systems
(borders and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No
767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399 and Regulation
(EU) 2017/2226**

and

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND THE
COUNCIL**

**on establishing a framework for interoperability between EU information systems
(police and judicial cooperation, asylum and migration)**

{COM(2017) 793 final} - {SWD(2017) 473 final}

Executive Summary Sheet

Impact assessment on Proposal for a Regulation establishing the interoperability of EU information systems for security, border and migration management

A. Need for action

Why? What is the problem being addressed? Maximum 11 lines

The lack of interoperability between EU information systems impedes the work of authorised users (border guards, law enforcement officers, immigration officers, visa officials or judicial authorities). The fragmented architecture of data management for security, border and migration management, where information is stored separately in unconnected systems, can also lead to blind spots with implications for the EU's internal security. External border controls on persons are not as effective as they should be, to enable effective management of migration and to contribute to internal security. This is evidenced by the ongoing irregular border crossings into the EU, and an evolving threat to internal security as demonstrated by a series of terrorist attacks.

In this light, the following specific problems were identified:

- Lack of fast, seamless and systematic access by authorised users to necessary information;
- No possibility for authorised users to detect multiple identities and identity fraud;
- Limited access to information systems for the purpose of identity checks in the territory of a Member State; and
- Varied and complex law enforcement access procedures to border management systems.

Four drivers of the problems have been analysed:

- Inadequate organisation of access to information systems;
- Imbalance between law enforcement access safeguards and operational needs;
- Restrictive interpretation of the purpose of border management systems; and
- Repeated and separate storage of personal data in different systems.

What is this initiative expected to achieve? Maximum 8 lines

Two general objectives:

- Improve the management of the Schengen external borders, building on the European Agenda on Migration and subsequent communications, including the Communication on preserving and strengthening Schengen.
- Contribute to the internal security of the European Union, building on the European Agenda on Security and the Commission's work towards an effective and genuine Security Union;

Four specific objectives:

- Ensuring that end-users, particularly border guards, law enforcement officers, immigration officials and judicial authorities have fast, seamless, systematic and controlled access to the information that they need to perform their tasks, whilst respecting the existing access rights laid down in the respective EU legal instruments.
- Providing a solution to detect multiple identities linked to the same set of biometric data, with the dual purpose of facilitating identity checks for *bona fide* travellers and combating identity fraud.
- Facilitating identity checks of third-country nationals, on the territory of a Member State, by authorised officers.
- Facilitating and streamlining access by law enforcement authorities to non-law enforcement information systems at EU level, where necessary for the prevention, investigation, detection or prosecution of serious crime and terrorism.

What is the value added of action at the EU level? Maximum 7 lines

Key common databases at EU level are in place or in the process of being put in place, managed by the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA). The fundamental objectives of enhanced interoperability, by reason of the scale, effects and impact of envisaged actions, can only be achieved efficiently and systematically at EU level. A Special Eurobarometer survey shows that the proposed strategy of sharing information at EU level to combat crime and terrorism has widespread public support.

B. Solutions

What legislative and non-legislative policy options have been considered? Is there a preferred choice or not? Why? Maximum 14 lines

Options have been considered as a direct response to calls from both the Council and the European Parliament to address structural shortcomings related to existing information systems and to enhance information sharing. Legislation is required to effectively improve the interoperability of existing and

future systems. Options have been assessed from the baseline (option 1) of current existing (SIS, Eurodac, VIS) and planned or proposed (EES, ETIAS, ECRIS-TCN) systems. Option 2 assessed the following possible interoperability components as endorsed by the Commission in the *Seventh progress report towards an effective and genuine Security Union*:

- European search portal (ESP) enabling the simultaneous search of multiple systems, primarily using biographical data
- Shared biometric matching service (shared BMS) enables the searching of biometric data from several central systems
- Common identity repository (CIR) will bring together existing biographical identity data (of third-country nationals) otherwise stored in the various central systems.

Option 3 built on option 2 by adding a multiple-identity detector (MID) to enable verification of multiple identities, establishing rules on the use of EU information systems for checks within the territory, and streamlining access to EU information systems for law enforcement purposes through flagging. It is the combination of options 2 and 3 that will enable all the objectives to be met as a whole.

Who supports which option? Maximum 7 lines

As indicated above, both the Council and the European Parliament have expressed general support for measures to improve interoperability and information sharing. In response to a public consultation, responses were broadly in favour of the underlying principles of this interoperability proposal. The vast majority of respondents agreed that the issues the consultation identified were the correct ones, and that the objectives the interoperability package seeks to achieve are correct. While supporting the initiative, respondents consistently underlined the need for strong and clear data protection measures.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise main ones)? Maximum 12 lines

On a general level, interoperability is a means to improve security of the EU which is indispensable for growth of tourism. The major social impact of the measure will be the enhancement of border management and increased internal security, and therefore a reassurance to EU citizens. Police cooperation and law enforcement should experience a very positive effect through more consistent identity management and through streamlining access to border control and immigration systems. In addition, interoperability implies direct cost savings, which are estimated at an annual €77.5m, almost totally for Member State administrations. These savings mainly result from reducing recurrent training costs and from savings on the effort otherwise required to resolve cases of multiple identities and detecting identity fraud.

What are the costs of the preferred option (if any, otherwise main ones)? Maximum 12 lines

Immediate economic impacts will be limited to the marginal design and operation of the new facilities building on the existing systems. The costs will fall to the EU budget and to Member State authorities operating the systems. The one-off total cost is estimated at €169.8m. Costs are estimated to be shared almost equally between Member States (50.3%) and the EU centrally (49.7%). For ongoing annual costs of €28.5m, the proportion would be more 60% for Member States.

How will businesses, SMEs and micro-enterprises be affected? Maximum 8 lines

The proposed measures are expected to have no direct impact on small and medium-sized enterprises. For airports, seaports and carriers, the impact will be positive, in particular because of expedited border control.

Will there be significant impacts on national budgets and administrations? Maximum 4 lines

Member States are estimated to save some €76m/year from reduced training and IT costs, and through identification of multiple identities. One-off set-up costs to Member States are estimated at €85.5m.

Will there be other significant impacts? Max 6 lines

Given the personal data involved, interoperability will have an impact on the right to the protection of personal data. Interoperability will be designed and implemented in full respect of legislation, such as the General Data Protection Regulation, and the principles of data protection by design and default and be accompanied by a range of safeguards. The measures are proportionate and the minimum necessary to achieve the objective.

D. Follow up

When will the policy be reviewed? Maximum 4 lines

Every four years, eu-LISA will report on the technical functioning of the interoperability components. One year later, the Commission will produce an overall evaluation of their impact, including on fundamental rights impacts.