Public Consultation on the Smart Borders Package

Fields marked with * are mandatory.

Questions to all contributors

* You are responding this questionnaire as:

- (○) An individual
- (●) A public authority
- (○) An organisation (non-governmental, civil society organisation, academia, research, social partner, interest group, consultancy, think-tank…)
- (○) A carrier, transport or tourism operator, or a transport infrastructure operator

* Contributions received from this survey will be published on the European Commission's website (for further information, please consult the privacy statement). Do you agree your contribution being published?

- (●) Yes, your contribution may be published under your name (or the name of the entity you represent)
- (○) Yes, your contribution may be published but should be kept anonymous (without your name or the name of the entity you represent)
- (○) No, you do not want your contribution to be published. Your contribution will not be published, but it may be used internally within the Commission for statistical and analytical purposes

Questions to public authorities (all EU institutions, national, regional and local authorities, candidate countries, third-country authorities and intergovernmental organisations)

1. About your organisation

* Name of your organisation:

Ministry of Security and Justice

* Address of your organisation:

Turfmarkt 147, Postbus 20301, 2500 EH, The Hague

* Email address of your organisation:

no.replydmb@minvenj.nl

* Country where your organisation is based:

- Afghanistan
- Albania
- Algeria
- Andorra
- Angola
- Antigua and Barbuda
- Argentina
- Armenia
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bhutan
- Bolivia
- Bosnia and Herzegovina
- Botswana
- Brazil
- Brunei
- Bulgaria
- Burkina Faso
- Burma
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Central African Republic

- Chad
- Chile
- China
- Colombia
- Comoros
- Congo
- Costa Rica
- Côte d'Ivoire
- Croatia
- Cuba
- Cyprus
- Czech Republic
- Democratic Republic of the Congo
- Denmark
- Djibouti
- Dominica
- Dominican Republic
- East Timor
- Ecuador
- Egypt
- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Ethiopia
- Fiji
- Finland
- former Yugoslav Republic of Macedonia
- France
- Gambia
- Georgia
- Germany
- Ghana
- Greece
- Grenada
- Guatemala
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- the Holy See/Vatican City State
- Honduras
- Hong Kong
- Hungary
- Iceland
- India

- Indonesia
- Iran
- Iraq
- Ireland
- Israel
- Italy
- Jamaica
- Japan
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Libya
- Liechtenstein
- Lithuania
- Luxembourg
- Macao
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Mauritania
- Mauritius
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Namibia
- Nauru
- Nepal

- [x] Netherlands
- [ ] New Zealand
- [ ] Nicaragua
- [ ] Niger
- [ ] Nigeria
- [ ] North Korea
- [ ] Norway
- [ ] Oman
- [ ] Pakistan
- [ ] Palau
- [ ] Palestinian Authority
- [ ] Panama
- [ ] Papua New Guinea
- [ ] Paraguay
- [ ] Peru
- [ ] Philippines
- [ ] Poland
- [ ] Portugal
- [ ] Qatar
- [ ] Romania
- [ ] Russia
- [ ] Rwanda
- [ ] Saint Kitts and Nevis
- [ ] Saint Lucia
- [ ] Saint Vincent and the Grenadines
- [ ] Samoa
- [ ] San Marino
- [ ] São Tomé and Príncipe
- [ ] Saudi Arabia
- [ ] Senegal
- [ ] Serbia
- [ ] Seychelles
- [ ] Sierra Leone
- [ ] Singapore
- [ ] Slovakia
- [ ] Slovenia
- [ ] Solomon Islands
- [ ] Somalia
- [ ] South Africa
- [ ] South Korea
- [ ] South Sudan
- [ ] Spain
- [ ] Sri Lanka
- [ ] Sudan
- [ ] Suriname
- [ ] Swaziland

- Sweden
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- Togo
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- Uruguay
- Uzbekistan
- Vanuatu
- Venezuela
- Vietnam
- Yemen
- Zambia
- Zimbabwe
- Other

* Type of organisation:
- International
- European
- (•) National
- Regional
- Local
- Other

* Is your organisation registered in the Transparency Register of the European Commission and European Parliament?
- Yes
- (•) No

2. The use of biometric identifiers

* The 2013 legislative proposal on the Entry/Exit System requires visa-exempt non-EU citizens entering the Schengen area for a short stay to give 10 fingerprints at the border crossing if they are not registered in the Entry/Exit System — either because it is their first visit or because the data retention period has expired since their last visit.
Travellers who hold a visa will have given fingerprints when applying for it, so would not need to have their fingerprints taken again at border crossings.
The 2013 legislative proposal on the Registered Traveller Programme requires non-EU citizens applying for the programme to give four fingerprints. They would give these when submitting an application under the programme.
Both proposals exempt children under the age of 12 from the requirement to give their fingerprints.
In both cases, biometric identifiers (fingerprints) would be used to improve on identity and verification checks, e.g. to verify that the person crossing the border is the person to whom the passport was issued. The Commission is currently examining the feasibility of using other types of biometric identifiers (in particular photo/'facial image') for this purpose.

What kind of biometric identifiers would you prefer to be used?

- ( ) No biometrics at all, only alphanumerical data (for example, your name, surname and travel document number)
- ( ) Fingerprints only
- (•) A combination of facial image and a limited number of fingerprints
- ( ) Facial image only

* Why? Please explain: (maximum 500 characters)

Text of 1 to 500 characters will be accepted

> The processing time is the curcial factor for the choice for a biometric identifier. In this context it is important that the regulation is flexible so that future technical developments (contactless scanners, use of FI) can be taken in account.

* Do you think that the use of biometric identifiers could jeopardise or improve the reliability of border checks?

- ( ) Jeopardise
- (•) Improve
- ( ) No opinion / Not sure

* Please explain: (maximum 500 characters)

Text of 1 to 500 characters will be accepted

> The NL is of the opinion that the use of biometric identifiers could improve the reliability of border checks.

3. Process to accelerate border crossing for non-EU citizens

* The 2013 proposal for the Registered Traveller Programme proposes setting up a programme to enable pre-vetted non-EU citizens to benefit from facilitations at borders. This will make it easier and quicker for these pre-vetted frequent travellers to cross borders. The Commission is analysing potential simplifications to this approach.

To what extent do you consider that there is a need for a process to accelerate border crossings by non-EU citizens at the Schengen area's external borders?

- (●) To a great extent
- ( ) To some extent
- ( ) To a small extent
- ( ) Not at all
- ( ) I do not know

* The 2013 proposal for the Registered Traveller Programme provides for a faster border crossing process for those travellers having submitted a specific application. Applicants for the Registered Traveller Programme would be subject to some specific checks when submitting their application. Participation in the programme would require the payment of a fee. For their subsequent journeys, accepted Registered Travellers would be exempt from part of the checks applicable at borders to non-EU citizens. At major external border crossing points equipped with automated border control gates, border checks would be performed using these infrastructures. Where no automated border control gates would be available, Registered Travellers would be able to use the lanes reserved for citizens of EU countries and Iceland, Liechtenstein, Norway and Switzerland.
Do you consider that this specific process to accelerate border crossings should be available for non-EU citizens?

- (●) Yes
- ( ) No

* Why? (You may tick more than one box)

- [x] This process offers facilitations to its beneficiaries and therefore can contribute effectively to the overall facilitation of border crossings
- [x] This process implies a pre-vetting of its beneficiaries and is therefore secure
- [ ] Other

* Another faster border crossing process could be envisaged for those travellers entering the Schengen area for a short stay and whose passport data and biometric identifiers had already been registered in:
- the Visa Information System for travellers holding a short-stay visa;

- the Entry/Exit System for visa-exempt travellers whose data has been registered during a previous journey, if the retention period has not yet expired.

These travellers would be able to benefit from a faster process without needing to submit any application. This process would be available at those border crossing points equipped with self-service kiosks. Some elements of the border checks (passport control, biometric verification, answering questions…) could be performed using self-service kiosks. The decision to authorise or refuse entry would be taken by a border guard who may also need to talk to the traveller for additional verifications.

Do you consider that the process to accelerate border crossings described above should be available for the two categories of travellers listed?

- (●) Yes
- ( ) No

* Why? (You may tick more than one box)

- [x] This process proposes facilitation for a wide range of users and it can therefore contribute more effectively to the overall facilitation of border crossings
- [x] This process is administratively less cumbersome as it does not rely on any pre-enrolment
- [x] Other

* Please explain: (maximum 500 characters)

Text of 1 to 500 characters will be accepted

NL is of the opinion that in the fast track procedure there should be a balance between security and facilitation of border crossings. With a fast track for all by using self service kiosk, there would not be real pre-vetted trusted bona fide travellers who could be checked with lighter procedures. Such a procedure could be used for facilitating third country nationals' border checks in the busiest border crossing points, especially at airports, because of the infrastructure.

4. Data

* The 2013 Entry/Exit System proposal sets a limit to how long data can be kept after its collection at the entry and exit of the Schengen area's external borders:
1) A maximum retention period of 181 days after exit (91 days if the traveller has been absent from the Schengen area for 90 days). This retention period enables enforcement of the rule authorising non-EU citizens to stay in the Schengen area during 90 days within any period of 180 days.
2) A data retention period of five years for a person who has overstayed (i.e. remains in the Schengen area beyond the authorised period of stay). This data retention period aims to support the identification of the person and the return to his/her country of origin.
The Commission is evaluating whether these retention periods should be adapted in its new proposal.

Concerning the data retention period for the Entry/Exit System for non-overstayers, would you be in favour of:

- ( ) A maximum data retention period of 181 days starting from the exit date. This period is sufficient to calculate the duration of authorised short stays in the Schengen area.
- ( ) A longer data retention period, to speed up border controls as a traveller returning to the Schengen area during the data retention period would not need to re-enrol under the Entry-Exit System, since his/her personal data is still stored in the system and can be reused.
- (•) Other

* Please explain: (maximum 1500 characters)

Text of 1 to 1500 characters will be accepted

In principle the retention period and determining the start of the retention period, extension, etc should be based on the necessity of collecting EES data for the primary purpose. The NL is also of the opinion that a longer data retention period could speed up the border controls as travellers returning to the Schenge area during the data retention period would not need to re-enrol under the EES, since the personal data is still stored in the system and can be reused; also the inoperabilty with EU VIS can be taken into account.

* Concerning the data retention period for the Entry/Exit System for people who overstay, would you be in favour of:

- (•) A data retention of five years following the last day of the authorised stay
- ( ) A data retention longer than five years
- ( ) A data retention shorter than five years

* Why? Please explain: (maximum 500 characters)

Text of 1 to 500 characters will be accepted

Its preferable that the data retention period of the EES is the same as the retention period for the VIS and for RTP, to maximize the interoperablitity between the different databases and the reuse of the biomterics which are already registered in these databases.

5. Law enforcement access to the Entry/Exit System data

* The 2013 Entry/Exit System proposal provides that the option for law enforcement authorities to access data will be evaluated two years after the system enters into operation.
For its forthcoming revised proposal, the Commission is analysing whether law enforcement authorities should have access to the system, and if so, under which conditions. This analysis will address the necessity, appropriateness, and proportionality of this option and be accompanied by a fundamental rights impact assessment.

Would you favour granting law enforcement authorities access to the data stored in the Entry/Exit System for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences? This access would be granted under strict legal prerequisites in full compliance with fundamental rights.

- (●) Yes
- ( ) No
- ( ) Not yet. The issue should be evaluated two years after the implementation of the Entry/Exit System.
- ( ) No opinion / Not sure

* Please explain why: (You may tick more than one box)

- [x] There is a security need for such access
- [x] Other

* Please explain: (maximum 500 characters)

Text of 1 to 500 characters will be accepted

Th NL considers that consultation of EES data will substantially contribute to the prevention, detection or investigation of any of the criminal offences in question. Such reasonable grounds could be consider to exist in particular where there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls in a category covered by the future Regulation, eg conditions Eurodac or VIS regulation.

* If law enforcement authorities had access to the Entry/Exit System data, which of the following conditions should be implemented to mitigate the impact on fundamental rights and in particular on data protection? (You may tick more than one box)

- [x] Access should be limited to the prevention, detection or investigation of terrorist offences or other serious criminal offences.
- [x] There should be reasonable grounds to consider that the specific envisaged consultation of the Entry/Exit System data will substantially contribute to the prevention, detection or investigation of any of the terrorist or serious criminal offences in question.
- [x] Searches should only be possible in specific cases under clearly defined circumstances. The proposal should exclude searches on a systematic basis.
- [x] The data should be accessible for law enforcement purposes for a predefined limited period of time.
- [x] A court or an independent administrative body should verify in each case if the required conditions for consulting the Entry/Exit System for law enforcement purposes are fulfilled.
- [x] Access to the Entry/Exit System should only be possible if prior searches in more restricted databases (e.g. Member States' criminal databases) do not provide sufficient results.
- [ ] No opinion / Not sure
- [ ] Other

6. Stamping

* Currently, stamping the passport is the only method of indicating the dates and locations of entry and exit. The stamps are used by border guards and immigration authorities to calculate the duration of the stay of non-EU citizens and to verify compliance with the rules on short stay (authorised stay of 90 days within any period of 180 days). This calculation method is time-consuming and difficult, particularly for frequent travellers. In addition, maintaining the quality and security of stamps requires both resources and efforts, as they can be subject to counterfeiting and forgery.
The 2013 proposals provide for the abolishment of the stamping of passports of non-EU citizens crossing the external borders of the Schengen area. The Commission would like to gather views on the consequences of such abolition.

If stamps on passports were discontinued for short-stay travellers who are not EU citizens, would it be necessary for public authorities other than border management authorities to have access to the information that the stamps currently provide (date and location of entry into/exit from the Schengen area)?

- (•) Yes
- ( ) No
- ( ) No opinion / Not sure

* If yes, which public authorities would need to access this information and for which purpose(s)? (maximum 1500 characters)

Text of 1 to 1500 characters will be accepted

Border guards; for calculating the duration of stay. Stamping and manual calculations based on stamps is generally considered by border guards as cumbersome and a relatively outdated process. This group of users is in favour of an automated calculator in the EES.

Immigration and visa authorities: to see the arrival date of the current period of stay in the country and to see if the TCN has a possitive history record in the EES.

Inland police forces, labour inspections and other administrative services like the municipalities in the context of detection of irregular stay. Furthermore the information in the EES can also be helpfull to detemine the ID of a person without documents.

7. Comments/other questions

* Do you expect any other possible impacts of the Entry/Exit System or the Registered Traveller Programme on asylum seekers that should be taken into account? (maximum 1500 characters)

Text of 1 to 1500 characters will be accepted

The proposals as such don't have any impact on asylum seekers. But the NL finds it important that the information of the EES en RTP can be used for the asylum procedure under strict conditions like eg the conditions of the Eurodac regulation or VIS regulation.

* Do you expect any other possible impacts on EU citizens travelling abroad that should be taken into account? (maximum 1500 characters)

Text of 1 to 1500 characters will be accepted

no

* Do you expect any other possible impacts on economic operators such as travel agencies or air, land and sea carriers that should be taken into account? (maximum 1500 characters)

Text of 1 to 1500 characters will be accepted

The abolition of stamping of the travel documents of TCN has consequences on economic operators. Carriers are required to check whether or not a person carries valid documentation for entry into the Schengen area. This means they should be in de position to check the EES whether this person is allowed to travel to the Schengen area. Furthermore the travellers themselves need to be able to check whether or not they are still allowed to travel to the Schegen ares, as they are today. In this regards it could be usefull if travel agencies also have access to the system. The procedures for economic operators should be secure, user-friendly and preferably the use of it should be compulsory. For the economic operators the speed of the (border) procedure is also an important factor.

* If you have any other comments regarding the Smart Borders package or its impacts, please give further details (maximum 1500 characters).

Text of 1 to 1500 characters will be accepted

N/A

Contact

✉ HOME-SMART-BORDERS@ec.europa.eu