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COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL

Enhancing security in a world of mobility: improved information exchange in the fight against terrorism and stronger external borders

1. INTRODUCTION

The Schengen area is one of the EU's most cherished achievements, bringing unique economic and societal gains as an area without controls at internal borders. But the challenge of maintaining security in an open Europe has been put to a huge test in recent years. The pressures of the migration and refugee crisis, alongside a wave of terrorist attacks, have demanded a new approach. The European Agenda on Migration and the European Agenda on Security[1] have shown how deeper cooperation provides an answer not only in terms of crisis response, but also in terms of using shared pools of expertise and knowledge to build a more robust and lasting European system, one equal to the task of providing the strong borders and smart intelligence needed to ensure a secure Europe.

This Communication takes this agenda a step further, setting out practical measures to accelerate and broaden this work. It builds on a powerful consensus – in the institutions[2] and in public opinion[3] – that the EU must do its utmost to help Member States to protect citizens, in a way which maximises the opportunities for cooperation while guaranteeing the full respect of the fundamental rights on which EU societies are based.

The background to this work must be a determined effort to maintain progress on the full range of measures under the European Agenda on Migration and the European Agenda on Security.

Strong borders also means reducing the risk of the exceptional pressures seen over the past year, by carrying forward the huge efforts undertaken to restore a stable situation in terms of humanitarian standards and migration management in the wake of the crisis. It means a common approach on asylum and return while also enhancing pathways for legal migration. It means working through the Partnership Framework to reduce the root causes of irregular migration and consolidate a new phase in migration cooperation with key partners.[4] In this way a strong external border will also provide the bedrock for Schengen as an area without controls at internal borders – as set out in the "Back to Schengen" roadmap[5] – and enhance mobility.

On the security side, an effective and genuine Security Union[6] means Member States working closely together on matters of security, acknowledging that the internal security of one Member State is the internal security of all Member States and of the Union as a whole. Work in areas such as preventing and fighting radicalisation, improving information exchange, protecting citizens and critical infrastructures and cutting the access of terrorists and criminals to firearms or financing needs to be urgently carried through to use every opportunity at the EU's disposal to tackle security threats. Full and swift implementation in all these areas provides the springboard to move still further.

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1 COM(2015) 185 final, 28 April 2015 and COM(2015) 240 final, 13 May 2015.

2 See for example the Joint Statement of EU Ministers for Justice and Home Affairs and representatives of EU institutions on the terrorist attacks in Brussels on 22 March 2016 (24 March 2016).

3 In a recent Eurobarometer survey, 71% called for more EU action in relation to external borders and 82% in relation to counter-terrorism (Special Eurobarometer of the European Parliament, June 2016).

4 "Communication on establishing a new Partnership Framework with third countries under the European Agenda on Migration", COM(2016)385 final, 7 June 2016.

5 "Back to Schengen - A Roadmap", COM(2016) 120 final, 4 March 2016.

6 "Delivering on the European Agenda on Security to fight against terrorism and pave the way towards and effective and genuine Security Union", COM(2016) 230 final, 20 April 2016.

This Communication sets out key workstreams to further implement the European Agendas on Migration and Security and the Security Union. Taken together, the measures are key building blocks for managing migration, facilitating bona fide travel, and working with Member States to enhance security. The faster effective and interactive systems are put in place, the faster the benefits will be felt. This Communication therefore shows how this work must be accelerated, as well as highlighting additional developments in the short term to further improve the management of external borders, to address security needs and ensure that border guards, customs authorities, asylum services, police officers and judicial authorities have the right information. This intensified use of data puts a particular onus on the need to respect fundamental rights and data protection rules – this means well-designed, correctly-used and properly-regulated technology and information systems, and full safeguards to ensure the protection of private life and personal data.

2. MOBILITY AND SECURITY THROUGH STRONG BORDERS AND EFFECTIVE INFORMATION EXCHANGE

Strong external borders play a key role in allowing internal mobility. This is all the more true for the European Union, where the strength of the external border is a precondition for free movement within the Schengen area. Every year, there are some 400 million crossings of the Schengen border by EU citizens, and 200 million by non-EU citizens. The daily reality of border control is of central importance to the EU economy, to EU society, and to relations with our neighbours.

Border control needs to offer both efficiency and security. Straightforward travel for the millions of Europeans and non-Europeans crossing the border must offer lighter and streamlined procedures to benefit both EU citizens and 'bona fide' third country travellers. The result is major economic benefit to an EU economy built on trade, and savings for hard-pressed public authorities. But at the same time, it must enhance the other objectives of border management, such as tackling irregular migration, and identifying security risks. The answer lies in balancing the different demands of border management through efficient, secure and comprehensive steps tailor-made to different kinds of arrivals, reconciling the benefits of increased mobility with the imperative of security.

Many travellers are seeking a short-term stay in the EU for business, leisure or study, entering with a visa where required. In these cases, as in the case of all legal pathways to come to the EU, the border represents an opportunity to check that all entry conditions are met and to welcome people to Europe.

But the migration and refugee crisis has put the spotlight on the particular need to manage the irregular arrivals. The EU has obligations towards those in need of international protection, who need to be channelled towards the asylum system. On the other hand, those who have not used the legal pathways available and who have no right to stay need to return or be returned. It is therefore essential that everyone is registered as required on entry into the Schengen area, is subject to the appropriate identification and screening procedures, and is hosted in facilities which ensure that the necessary checks can be made.

Shortcomings and gaps, including weaknesses at the EU's external borders, have been clearly demonstrated in the response to the migration and refugee crisis. Major efforts have been needed to restore effective border management. These include the unprecedented work to support Member States in the frontline through the "hotspot" approach; the step-by-step work to return to the orderly application of the Schengen rules to protect the external border; and a deep level of cooperation and coordination to maintain a day-to-day scrutiny of the evolving situation. These efforts must continue, most obviously in Greece and Italy where there continue to be weaknesses in the structures put in place, the speed of implementation, and the supply of essential expertise from other Member States. This is why the early implementation of the European Border and Coast Guard is essential.

Whilst borders are only part of the solution to security, gaps in border control bring gaps in security. The emergence of foreign terrorist fighters as a major security risk has underlined the cross-border threat and the particular importance of comprehensive and effective border checks, including on EU citizens. This adds to broader concerns that counter-terrorism has been hampered by the ability of terrorists to operate across borders, putting the spotlight on gaps in the sharing of key intelligence.

The EU can use the opportunities for a common approach to build a powerful system harnessing its scale to bring citizens more security. If the EU uses its law enforcement and border control tools to the full, exploits the potential of inter-operability between information sources to identify any security concerns from a common pool of information, and uses the stage of entry into the EU as a key point for security checks to take place, the result will negate the ability of terrorist networks to exploit gaps. This is at the heart of the Security Union.

This puts the focus on entry procedures and external border management. It calls for checks which are thorough, but which avoid unnecessary delays, pointing to the benefits of screening before travel. It requires quality and certainty in identity documents, facilitated by comparable security features and common approaches to fighting document fraud. It underlines the need for border controls to be secure, swift and modern, with systems and procedures allowing for quick and reliable access to the information needed to check identity and status.

Avoiding security gaps through a common approach

In April 2016, the Commission launched a debate on how to develop stronger and smarter information systems[7] to address shortcomings and gaps in the architecture and in interoperability of current data systems and to realise the full potential of these systems to identify security threats, in full compliance with data protection rules. The performance of a system is of course also conditioned by the quality of data it contains, hence the need for Member States to fully implement and use existing rules and systems – such as the Schengen Information System, the Visa Information System, the Interpol Stolen and Lost Travel Documents database, EURODAC and Europol databases.

[7] "Stronger and Smarter Information Systems for Borders and Security", COM(2016) 205 final, 6 April 2016. An important element in the Communication was to set up a High Level Expert Group on Information Systems and Interoperability.

In the face of the terrorist threat faced today, the efficiency of security checks is highly dependent on the exchange of information not only between law enforcement authorities, but also intelligence communities. Effective and timely information-sharing among relevant authorities is a prerequisite for successful counter-terrorism action. But there remains fragmentation at both national and EU levels which can lead to dangerous security gaps. In building bridges between the two communities, the EU level can help, both by upgrading EU mechanisms by making full use of the possibilities for cooperation under the EU Treaties, and by helping to instil a culture of common responsibility, and the will and capacity to turn that into operational action.

3. KEY OPERATIONAL STEPS

3.1 Creating European integrated border management: The European Border and Coast Guard

The European Parliament and the Council acted swiftly to reach agreement on the European Border and Coast Guard proposal:[8] following formal adoption of the Regulation this week, everything is now ready for the European Border and Coast Guard to roll out its full operation.

The European Border and Coast Guard is a major advance in the EU's border management. It specifically targets the weaknesses so obvious in the migration and refugee crisis: the fragmentation of effort, the lack of consistency in border control, and the shortfalls in the provision of national expertise. It will enable integrated border management by bringing together a powerful new European Border and Coast Guard Agency with the national services responsible for border management, including coastguards to the extent that they carry out border control tasks.[9] The Agency will build on the work of Frontex with new tasks in areas like return, organising a systematic EU approach. It will formalise the "hotspot" approach being used today to help Member States under the most intense pressure. Crucially, it will ensure high and uniform standards, with mandatory vulnerability assessments to assess the capacity and readiness of Member States, and ultimately, the Agency can be tasked to intervene directly on the territory of a Member State.[10]

The result marks a radical upgrade of the EU's ability to react to the fluctuating challenge of migrants arriving at the EU external border. Response capacity will be on a permanent footing, with standing pools of national border guards – at least 1,500-strong – and technical equipment, rather than relying on stop-start, voluntary contributions. As well as ensuring orderly management at the external border, it would mean that proper identity and security checks are carried out. This is also linked to the need to modify the Schengen Borders Code to require systematic checks.[11]

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8 COM(2015) 671 final, 15 December 2015.

9 It will also have a stronger governance structure, including a complaint mechanism for fundamental rights and more accountability of the Agency to the European Parliament.

10 If shortcomings in the control of the external borders risk jeopardising the functioning of the Schengen area, and on the basis of an agreed operational plan.

11 COM(2015) 670 final, 15 December 2015. Checks would be made against relevant law enforcement databases at the external borders on all persons, including EU citizens and their families, to screen for threats to public order and internal security.

The European Border and Coast Guard will also be key to security. It will work with other EU agencies such as Europol and Eurojust to prevent and detect cross-border crime such as migrant smuggling, trafficking in human beings and terrorism.[12] It will also support Member States with expertise at the external borders, for example as part of operations against migrant smugglers. Members of the teams carrying out a border management operation will also now be able to consult relevant European databases, including law enforcement databases. This will ensure that the teams on the ground have access to the information they need – and this can be extended to national databases at the discretion of the host Member State.[13] The deepened cooperation with Europol and Eurojust will require a particular attention to data protection. Personal data will be collected during the Agency's operational activities, regarding persons who are suspected, on reasonable grounds, by the competent authorities of the Member States of involvement in cross-border criminal activities, such as migrant smuggling, trafficking in human beings or terrorism. This will be transmitted to Europol and to the competent authorities of the Member States systematically and without delay, in accordance with national legislation and national and Union data protection rules.

It is imperative for the European Border and Coast Guard to be up and running. The fact that the new Agency will work on the basis of today's Frontex means it can start implementing its core tasks from the first day of work. The Commission, Frontex and Member States have advanced work to prepare the ground for the rollout of its full operations. Five operational priorities have been identified for action even before the entry into force of the new Regulation. These involve putting in place the mandatory pooling of resources, paving the way for the vulnerability assessments by determining a common methodology and undertaking a pilot assessment, taking the first steps on the new tasks for return, and preparing standard models for recurrent tasks like the complaint mechanism and status agreements with third countries. As a result, the key functions of the Agency will be operational.

These accelerated preparations must be pursued in parallel with intensified efforts to keep up the pressure to ensure strong borders under the current regime. The ongoing Frontex operations in Greece and Italy are still indispensable to restoring normal border management in those Member States. Other operations in the Balkans, for example in Bulgaria, are also key to preventing the emergence of new smuggling routes. Intensifying these operations and carrying them over smoothly under the European Border and Coast Guard framework is also critical to restoring the conditions for a return to a normally functioning Schengen by the end of 2016. This means being ready to deploy the first European Border Guards in October 2016. It is therefore an urgent necessity for Member States to address the current shortfalls in provision of experts in response to Frontex calls for Greece, Italy and Bulgaria.[14]

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12 The Agency should also take into account the Union Customs Risk Management and Supply Chain Security Strategy, providing inter-agency cooperation and information sharing among customs, law enforcement and security agencies.

13 The High level Interoperability Group is also looking at the possibility of giving the agency direct access to the European databases, taking into account data protection considerations.

14 As of 12 September 2016, the shortfalls in Member States' support stands at 253 for Joint Operation Poseidon, 129 for Joint Operation Triton, and 172 for the Joint Operations in Bulgaria.

Also important is the increase in the budget and staff of the Agency, as a consequence of the extension of the current Frontex mandate and new tasks. This will mean the budget will be more than trebled – by the end of 2017, staffing for the Agency will have more than doubled what was originally envisaged for Frontex. To support accelerating the implementation of the Regulation, there needs to be partial frontloading of the additional human resources foreseen for 2017. The Commission will make a proposal to the budget authority to allow the Agency to recruit staff members before the end of this year. The result should be that the Agency is immediately able to take over Frontex's existing operations and respond in full to any emerging needs.

The Commission is committed to provide financial assistance for urgent needs to Member States facing extreme pressure at the external borders of the Union. The Commission will also use the full range of EU funding possibilities, most obviously the support to borders through the Internal Security Fund, to support the medium and long-term work of Member States to ensure their responsibilities to provide a strong external border. Full use of these opportunities can be a major support to the development of high-quality and consistent border measures.

***Next steps**:*

Member States should:

- Fill the current shortfalls in response to calls for experts for Frontex operations in Greece, Italy and Bulgaria.
- Through participation in the Management Board, support the acceleration of the new Agency's work.
- Ensure that the national contributions to the rapid reaction and technical equipment pools are ready for full use from "day one" – including starting the annual bilateral talks now so that the contributions for 2017 are clear well before the end of this year.

Frontex should:

- Ensure that the methodology for the vulnerability assessment is agreed in October 2016 and the pilot completed in November 2016, so that the full set of first vulnerability assessments are concluded in the first three months of 2017.
- Ensure that the expert and equipment pools can be fully operational from the first day of operations.
- Speed up the recruitment of additional staff in order to carry out the enhanced mandate of the Agency.
- Ensure that the first European Border Guards are ready to be deployed in October 2016.

The Commission will:

- Adopt the model status agreement with third countries by the end of October.
- Adopt in September 2016 the budgetary proposals required to allow the Agency to swiftly recruit additional staff, in particular a proposal for amending the 2016 budget.
- Continue providing timely emergency financial assistance to Member States facing extreme pressure at the external borders.
- Provide administrative assistance to the Agency to facilitate the recruitment of necessary additional staff.
- Exploit the medium and long term possibilities offered by EU funds to support Member States' capacities at external borders.

The European Parliament and the Council should*:*

- By the end of October, agree on the proposed amendment to the Schengen Borders Code.
- Fast-track the budget amendment to bring forward recruitments for the new Agency.

3.2 Stronger controls through the Entry-Exit System (EES)

The Commission proposed a new Entry-Exit System in April 2016.[15] The System will collect data (identity, travel document and biometrics) and register entry and exit records (date and place of entry and exit) at the point of crossing. This more modern system of external border management, which replaces the stamping of passports, will improve the effectiveness of border controls and help ease the border crossing of bona fide travellers facing the risk of extra delays with the ever-increasing number of travellers.

It will have a particularly important role in ensuring the rules are applied to visa-free, as well as visa-authorised, access to the EU. It will also help to identify overstayers (individuals remaining in the Schengen Area after the end of their authorised stay). The rules on short stay entry (maximum 90 days in any 180 day period) in the Schengen area apply to all third country nationals. So it will be a crucial tool in identifying all third country nationals staying in the Schengen area beyond this period.

The System will also bring a contribution to security more broadly, as it will detect and combat identity fraud as well as the misuse of travel documents and possible repeat attempts to evade controls, since it would also record refusals of entry. The possibility for law enforcement authorities to access the system will support the fight against terrorism and organised crime. As such it will contribute to the prevention, detection and investigation of terrorism and other serious crime. The legislative proposal is part of the broader 'Smart Borders Package', addressing the role of information systems in enhancing external border management, internal security and the fight against terrorism and organised crime. This also includes the Communication on 'Stronger and Smarter Information Systems for Borders and Security' and a further proposed amendment to the Schengen Borders Code to integrate the technical changes needed for the Entry-Exit System.

There has been significant and speedy progress on the legal proposals in Council, both at technical and political level. The target date for adoption by the European Parliament and Council of the end of 2016 should be met. This will allow eu-LISA to start the development of the system in 2017, in view of having the system fully operational at the start of 2020.

Next steps:

The European Parliament and the Council should:

- By end 2016, agree on the Regulation for establishing an EU Entry-Exit System.

[15] COM(2016) 194 final, 6 April 2016.

3.3 Checking visa-free travellers in advance: a European Travel Information and Authorisation System (ETIAS)

An area of growing importance in finding the balance between mobility and security concerns legal entry into the Schengen area without the need for a visa. Visa liberalisation has proved an important tool in building partnerships with third countries, including as a means of ensuring effective systems of return and readmission, and to increase the attractiveness of the EU for business and tourism.[16] There is also an important element of reciprocity, with visa liberalisation generally working both ways, also enabling EU citizens to travel easily abroad. This points to a steady increase in the rise in the number of visa-exempt travellers to the Schengen area. An additional[17] layer of systematic control for visa-free country nationals would be a valuable complement to existing measures to maintain and strengthen the security of the Schengen area.

The idea of establishing an EU Travel Information and Authorisation System (ETIAS) was launched in the Communication on Stronger and Smarter Information Systems in April 2016. The Commission has now decided to make a proposal for such a system. It would be an automated system used to determine the eligibility of visa exempt third country nationals to travel to the Schengen Area. Countries like the USA, Canada and Australia already use similar systems and consider these as an important part of their essential security protections – as a result, these systems are now familiar to many Europeans.[18] As a minimum, it would cover all visa exempted third country nationals travelling to the Schengen Area for a short stay (maximum 90 days over any period of 180 days). It will gather information on these travellers prior to the start of their travel, to allow for advance processing. For the travellers, this will give them confidence that they would be able to pass the borders smoothly. For the EU authorities, this will allow to check for any potential security risk. It would therefore fulfil a dual function of border management and law enforcement.

Such a system would allow for checks against other databases and verify the application against set criteria and conditions. The objectives would be to ensure that:

- the applicant had no visa application refused in Visa Information System (valid for nationals of countries only recently granted visa waiver status);
- the applicant and his/her travel document is not subject to an alert in the Schengen Information System;
- the applicant is not subject to an alert in the Europol Information System;
- the travel document is not reported stolen or lost in the Interpol database;
- the applicant has no overstay or refusal of entry reported in the future Entry-Exit System;
- the intended travel complies with the short stay rules (intended duration combined with existing travel history is compatible with the 90-day over any period of 180-day rule);
- the applicant fulfils the entry conditions as defined in the Schengen Border Code.

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16 Almost 60 countries worldwide benefit from visa free travel to the European Union. The full list is contained in Annex II of the Visa Regulation 539/2001 of 15 March 2001, OJ L 81, 21.3.2001.

17 The Commission proposed in May 2016 a revision of the suspension mechanism in Article 1a of Regulation (EC) No 539/2001, allowing the temporary suspension of the visa exemption for nationals of a third country when certain conditions are met (COM(2016) 290 final).

18 For example, the United States Electronic System for Travel Authorisation system was set up in 2007. This determines the eligibility of visitors to travel to the US under its Visa Waiver Program by requiring an approved travel authorisation prior to travel.

It would also be possible to make a link with Advance Passenger Information and Passenger Name Record databases.[19] Applications rejected from the automatic processing would be transferred to a central team, for example in an existing EU Agency – which could handle the straightforward issues like the non-respect of the short stay rules. Applications subject to an alert in a database could be forwarded to the Member State(s) responsible for the alert for further verifications, for example through an interview of the applicant in a consular post.

The Commission's proposal will address issues including the costs of developing and running the system, the type of data to be collected and assessed, the interoperability with other existing and future systems, operational aspects at borders, the processing of data, legal aspects (including data protection considerations), human resources implications, and the impact on tourism and business.

Next steps:

The Commission will:

- Engage in further consultations and present a legislative proposal for the establishment of an EU Travel Information and Authorisation System by November 2016.

3.4 Enhancing identity management and strengthening the fight against document fraud: Document Security

Secure travel and identity documents are crucial whenever it is necessary to establish without doubt the identity of a person. Better management of free movement, migration and mobility relies on robust systems to prevent abuses and threats to internal security through failings in document security.

The EU has developed a coherent approach on securing travel documents, for example by moving towards the use of biometric data. This has resulted in harmonised solutions for EU citizens' passports,[20] documents for third country nationals,[21] and information systems.[22] High standards relating to the protection of personal data have been ensured.

[19] The Passenger Name Record Directive (PNR), though not as such a border control instrument, will bring critical new data on-stream for the prevention, detection, investigation and prosecution of terrorist offences and serious crime.

[20] Regulation (EC) 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States.

[21] Such as visa (Regulation (EC) 1683/95), residence permits for third country nationals (Regulation (EC) 1030/2002) and facilitated (rail) travel documents (Regulation 693/2003).

[22] Visa Information System and Schengen Information System.

However, there is evidence of increased document fraud in high-risk areas.[23] In addition, the nature of document fraud is rapidly evolving. Criminal networks involved in false identity and travel documents are becoming more specialised and are constantly developing new techniques, including manipulating anti-forgery devices and circumventing biometric checks. Even if the introduction of more sophisticated security features, production methods and document inspection systems is making forging or counterfeiting of identity and travel documents more difficult, fraudsters will look for other ways to evade detection. They also target other types of documents such as national ID cards and "breeder" documents (birth, marriage and death certificates) which are used as supporting documents to obtain genuine identity, residence and travel documents.

EU agencies are already heavily involved in efforts to combat document fraud. Frontex provides Member States with document expert teams and tools for inspection for first arrivals of migrants in the hotspots, as well as training and risk analysis. The European Counter Terrorism Centre in Europol is working on the link between fraudulent documents and terrorism, while document security is a key issue in the work of the Europol European Migrant Smuggling Centre.

The Commission constantly monitors technical developments and upgrades the security features of the visa format, residence permits for third country nationals and passports issued by Member States, paying particular attention to fundamental rights and personal data protection. Two recent proposals to upgrade and re-design the visa and residence permit have been made.[24] The urgent adoption of these proposals will be an important step forward.

In addition, in its Communication on 'Stronger and Smarter Information Systems for Borders and Security' the Commission looked ahead to new ways to enhance electronic document security and identity document management. It will propose an Action Plan targeting weaknesses in the process and proposing corrective action. This will distinguish actions to be taken at EU level from areas of national competence.

According to recent reports from Frontex, national ID cards with a lower security level were the most frequently detected false documents. As a follow-up to the 2013 EU Citizenship Report, the Commission launched a study at the end of 2015 to further assess how to address security concerns and the difficulties encountered by EU citizens regarding residence cards and identity documents. Following a public consultation, an impact assessment will explore options in the perspective of a possible legislative initiative. The Commission is also working on making Emergency Travel Documents more secure.

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[23] Europol has pointed to concerns that in the last two years, criminal gangs have been increasingly investing more in the production of fake documents to support a growing criminal market associated with the migrant crisis. Document fraud is now a highly important enabler of organised crime operated by groups involved in stealing or producing counterfeit passports and other travel documents (statement of 31 May 2016).

[24] Amendments to Regulation (EC) 1683/95, COM(2015) 303 final of 24 June 2015 and Regulation (EC) 1030/2002, COM(2016) 434 final of 30 June 2016.

Next steps:

The European Parliament and the Council should:

- Adopt the proposals on a new design and enhanced security features for the uniform formats for visas and residence permits by the end of 2016.

The Commission will:

- By December 2016, adopt an Action Plan on document security, as well as exploring enhanced security features for Emergency Travel Documents.

3.5 Developing the Security Union: Reinforcing Europol

Successive terrorist attacks have highlighted the complex and dynamic terrorism threat faced by Europe today. It seems clear that shortcomings in the exchange and use of information have contributed to the failure to prevent attacks and apprehend suspected terrorists. Effective and timely information-sharing among relevant authorities (security and law enforcement authorities, including customs and border guards where relevant) is a vital prerequisite for successful action against terrorism and serious crime. But progress in this area has proved difficult, and there is still fragmentation at both national and EU levels that risks to leave dangerous security gaps. Similarly, the migrant crisis has shown how organised crime groups are quick to exploit new opportunities, even at the risk of human tragedy. As the EU's core tool to harness cooperation to operational effect, Europol has taken some major steps forward, with the recent setting up of the European Counter Terrorism Centre,[25] the European Migrant Smuggling Centre[26] and the European Cybercrime Centre.[27] Additional resources have been made available to take account of the new tasks.[28] But the scale of the new security challenges requires a further step forward and as foreseen in the Security Union Communication, this Communication sets out concrete steps to upgrade the European Counter Terrorism Centre and to strengthen the work of Europol.

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[25] The Centre has been operational since 1 January 2016 and is composed of different entities such as the Internet Referral Unit, the EU-US Terrorist Financing Tracking Programme (TFTP), Europol's Analysis Work Files and Focal Points (such as TRAVELLERS on foreign terrorist fighters) and the European Bomb Data System. It has access to EU information systems and the network of Financial Intelligence Units. It has been reinforced by the Joint Liaison Team of seconded counter terrorism experts. EU CTC's current workforce is composed of 64 persons.

[26] The European Migrant Smuggling Centre (EMSC) was launched on 22 February 2016. The goal of the Centre is to proactively support EU Member States in dismantling criminal networks involved in organised migrant smuggling. The Centre focuses on geographical criminal hotspots, and is building a better capability across the European Union to fight people smuggling networks. EMSC's current workforce is composed of 39 persons.

[27] The European Cybercrime Centre (EC3) has been operational since January 2013. Its goal is to strengthen the law enforcement response to cybercrime in the EU and to help protect European citizens, businesses and governments.

[28] Reinforcements accompanying the new Europol Regulation and foreseen in the 2017 budget add up to around 90 extra posts.

While some progress has been observed recently, and law enforcement counter-terrorism units increasingly cooperate with Europol's European Counter-Terrorism Centre, cooperation between law enforcement and security services is still uneven.[29] Security services exchange more regularly through the Counter Terrorism Group (CTG),[30] outside the EU framework, and the two communities remain operationally disconnected.

The key challenge remains how to harness the potential benefits of sharing information and intelligence to make a real operational difference. This does not need institutional innovations. But making full use of the possibilities for cooperation under the EU Treaties could deliver a change in sharing and connecting information through multidisciplinary cooperation. The range of options available to achieve this objective are framed by the competences confered in the Treaties, the responsibility for national security belonging to Member States. In this context, the Commission will look for practical solutions to improve information exchange.

Whilst Europol has proven its added value and has gained credibility with national services, its counter-terrorism capabilities need to be enhanced if it is to play its full role. Europol's European Counter-Terrorism Centre is the backbone of the EU's action against terrorism, acting as an information and cooperation hub in support to Member States, also analysing terrorism, assessing threats, and supporting the development of counter-terrorism operational plans. It has already helped to increase the flow of information shared among the law enforcement authorities working on counter-terrorism, adapting infrastructures to the needs of the counter-terrorism community. An increase in data supplied to Europol's databases has been seen.[31] But as a focal point for marshalling and analysing information, its effectiveness depends on its capacity to quickly process what could be very large surges in information shared at key moments.

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29 This fragmentation is a well-known deficiency, as already underlined by the European Council in its March 2004 Declaration on combating terrorism. There has so far been a lack of action to overcome this issue.

30 The CTG is an informal group outside the EU framework that gathers the security services of EU Member States, Norway and Switzerland to support cooperation and operational exchange of intelligence. It also produces joint terrorism threat assessments based on intelligence provided by national services and cooperates with the Intelligence and Situational Centre (EU INTCEN).

31 Such as Focal Point TRAVELLERS or the Europol Information System. To give a practical example, Taskforce Fraternité, the dedicated team created to support the investigations into the Paris and Brussels attacks, and which pools together Europol analysts and counter-terrorism experts seconded by the Member States, has processed an unprecedented volume of data to investigate further international connections of the terrorists involved in those attacks by analysing communication, financial, internet and forensic records. The ex post support provided by Europol via its Task Force Fraternité has proved to be effective and was widely acknowledged. However, the ECTC needs to be fully equipped to take a more pro-active role also in anticipating threats.

Reinforcing the European Counter-Terrorism Centre would allow it to take a more pro-active role in helping to prevent and disrupt terrorist activities. This would target the timely detection of suspects and networks, the identification of new lines of investigations, the detection of international flows of terrorist financing and illegal firearms, and enhanced internet referrals and investigation support through the EU Internet Referral Unit – maximising the opportunities for the cross-fertilisation of information to lead to better identification of risk and prosecution of wrongdoing. For example, Europol has pointed to how some of the suspects involved in migrant smuggling are also involved in other crime such as drug trafficking, document forgery, property crime and trafficking in human beings.[32] There are also concerns that migrant smuggling routes and networks are used to infiltrate potential terrorists (notably foreign terrorist fighters) into the EU and that terrorist organisations rely on migrant smuggling as a source of funding.

The current capabilities of the European Counter Terrorism Centre will be upgraded in the following areas:

- *Upgrading Europol's access to EU databases* This includes the Visa Information System and Eurodac,[33] future systems such as the Entry-Exit System or ETIAS, as well as the full exploitation of Europol's access to the Schengen Information System under its existing mandate. The Commission will use the revision of the legal basis of the Schengen Information System to propose to expand Europol's access to all alert categories stored there and to related functionalities. Europol should also exploit the possibility it has to request Passenger Name Record data from Passenger Information Units in Member States. As part of the process initiated by the Commission towards the interoperability of information systems, the High Level Expert Group on Information Systems and Interoperability should explore options to optimise simultaneous searches by Europol of relevant EU databases when it is necessary for its tasks.

- *Strengthening the internal governance of the European Counter Terrorism Centre* Building on the positive experience of the European Cybercrime Centre at Europol, the Commission proposes to establish a Programme Board as an extra governance tool for the internal work of the European Counter Terrorism Centre. This would provide an internal steering mechanism for its work, addressing aspects such as its work programme, its working methods and best practices. It would bring together Member States' law enforcement counter-terrorism authorities, the Commission and, where appropriate and necessary, other relevant partners, including EU agencies and bodies such as Eurojust, Frontex and the EEAS/EU INTCEN. It will be made clear that this would in no way impinge on the mandate of Europol's Management Board.

[32] Europol report on Migrant Smuggling in the EU – February 2016.

[33] Europol has access to the VIS and EURODAC but should accelerate the ongoing work to establish the connection to these databases.

- *Maximising the benefits of cooperation* Europol has developed a network of operational cooperation partners within the EU (Eurojust and Frontex) and beyond (several key partners such as the United States, Australia, Norway and Switzerland, as well as Interpol). The Commission and Europol, in close consultation with the European External Action Service (EEAS), will explore avenues for enhanced cooperation with other third countries, including as part of efforts to develop anti-terrorism partnerships with countries in the Middle East and North Africa. This should include exploring avenues for an involvement of security experts deployed in EU Delegations and for the improved transmission of information by third countries (including through the intermediary of Interpol).

- *Additional financial and human resources* Recent experience following the Paris and Brussels attacks suggest that the European Counter Terrorism Centre needs additional financial, technological and human resources to be able to handle and process increased volumes of information and criminal intelligence. These needs will further increase as Europol's access to information and databases expands. Already today, the Centre is not sufficiently equipped to deliver 24/7 support to Member States, a major gap in the face of events such as a major terrorist attack. The Commission will conduct a thorough needs assessment and take the necessary steps towards a significant reinforcement, including resources with specialised linguistic and IT skills, and long-term secondments from Member States' authorities.

These upgrades do not require any change to Europol's legal framework – adopted only in 2016 – but could take the opportunity of the full implementation of the new Europol Regulation as from May 2017 to be put in place at the same time.

It is also urgent to find a practical solution to the gap between the parallel tracks of the law enforcement community and the intelligence community, and between the European Counter-Terrorism Centre and the Counter Terrorism Group, to allow for a more systematic interaction between both communities and therefore an enhanced operational cooperation. Reinforcing the two tracks of the European Counter-Terrorism Centre and the Counter Terrorism Group, keeping them separate but linking the two communities, would add up to an effective counter-terrorism cooperation framework in Europe, without the need for new structures.

In parallel to the evolution of the Europol European Counter-Terrorism Centre, the Counter Terrorism Group has recently been strengthened by introducing a common platform for the exchange of information between Member States' security services, accompanied by secure infrastructure for timely and secure communication. This presents a new opportunity to define a level of interaction between this platform and the law enforcement community cooperating within the European Counter-Terrorism Centre at Europol.

The Commission therefore encourages Member States to consider opening the Counter Terrorism Group, an intergovernmental intelligence forum, to interaction with law enforcement authorities cooperating within the framework of Europol (the European Counter-Terrorism Centre). With the objective of linking the dots, some form of information exchange hub could offer a platform where authorities obtaining information related to terrorism or other serious cross border crimes would share it with such law enforcement authorities.

Such an information exchange hub would not be a new feature across the European security landscape. A number of Member States have counter-terrorism coordination processes or "fusion centres" in place at national level for national security services and law enforcement authorities to come together. Such mechanisms vary however greatly in terms of institutional structure (specific entity or dedicated body) and mandate (from strategic threat assessment to operational coordination). Member States will be invited to share the successful experiences and lessons learnt at national level in establishing information exchange structures.

Next steps:

Member States should:

- Facilitate an information exchange hub based on the interaction between the law enforcement community and the intelligence community, within the framework of the Counter Terrorism Group and the European Counter-Terrorism Centre, in accordance with relevant EU and national rules and arrangements.

The Commission will:

- Work with Europol, the Council and the European Parliament to take all necessary steps to upgrade Europol's capabilities by the entry into application of the new Regulation in May 2017.

4. CONCLUSION

Delivering on better border management, better use of the tools and databases available, and developing new tools and cooperation mechanisms for the future are the keys to providing strong borders and effective security for citizens in a world of mobility. This can make a crucial difference to the security of the EU, its Member States and its citizens.

This Communication sets out the actions that need to be taken in the immediate future, both at the European and the national level, to help deliver stronger external borders and a greater degree of security for citizens.

The EU institutions and Member States must now show the same urgency and focus they deployed to ensure the quick adoption of the European Border and Coast Guard to issues of implementation and operational delivery, as well as taking forward proposals on the table, and to concretise the future steps towards an effective and genuine Security Union.