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# REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL

## on the state of play of preparations for the full implementation of the Interoperability Regulations in accordance with Article 78(5) of Regulation (EU) 2019/817 and Article 74(5) of Regulation (EU) 2019/818

# 1. Introduction

On 11 June 2019, the Interoperability Regulations[1] entered into force. The Regulations are designed to upgrade the EU information systems for security, border and migration management and make them work together in a smarter and more efficient way. The interoperability between EU information systems was established with a view to improve the effectiveness and efficiency of checks at the external borders, to contribute to the prevention of illegal immigration and to contribute to a high level of security within the area of freedom, security and justice of the Union. It also aims to improve the implementation of the common visa policy, to assist in the examination of applications for international protection, to contribute to the prevention, detection and investigation of terrorist offences and other serious criminal offences and to facilitate the identification of unknown persons.

Preceding the adoption of the Regulations, in April 2016, the Commission presented a Communication *Stronger and Smarter Information Systems for Borders and Security*[2]. This outlined possible ways to make EU information systems work better to enhance border management and internal security. In its Resolution of 6 July 2016, the European Parliament called for proposals to improve and develop existing EU information systems, address information gaps and move towards their interoperability, as well as proposals for compulsory information sharing at EU level, accompanied by the necessary data protection safeguards. In its conclusions of 15 December 2016, the European Council called for work to continue on delivering interoperability of EU information systems and databases.

Interoperability between EU information systems was established in order for these systems and their data to supplement each other while respecting the fundamental rights of individuals, in particular the right to protection of personal data.

At the time of adoption of the Interoperability Regulations, three EU information systems were in operation: the Schengen Information System (SIS), the Visa Information System (VIS) and the Eurodac system. In addition, three other systems are currently in development phase: the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS) and the centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN system).

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[1] Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA;
Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816.

[2] COM/2016/0205 final.

The Interoperability Regulations lay down provisions on monitoring and evaluation, by the Commission and in particular by eu-LISA for the technical development. eu-LISA submitted a first report in December 2019.[3]

Under the terms of Article 78(5) of Regulation (EU) 2019/817 and Article 74(5) of Regulation (EU) 2019/818, the Commission is required to submit a report to the European Parliament and to the Council on the state of play of preparations for the full implementation of the Regulations. The report should include detailed information about the costs incurred and information as to any risks that may impact the overall costs, as provided for in the Interoperability Regulations. Similar reports are to be submitted by the Commission every year until the dates of the start of operations of the interoperability components are determined by means of the Commission implementing acts referred to in Article 72 of Regulation (EU) 2019/817 and Article 68 of Regulation (EU) 2019/818.

## 2. Implementing legislation

The Interoperability Regulations provide that implementing legislation should be adopted in order to supplement and implement certain detailed technical aspects of the Regulations. Some of these acts are necessary to fully enable eu-LISA to commence its design and development of the components in the context of the overall system architecture, especially as this requires defining technical specifications and preparing procurement procedures in order to work with contractors. Such terms of reference must be based on clear and complete technical specifications set out in the necessary calls for tender. Other acts are needed to lay down technical rules to facilitate operation on the ground by the relevant authorities, for example through the use of standard forms and establishing cooperation procedures to address security incidents.

Upon the entry into force of the Regulations, the Commission began to prepare a first set of implementing measures (four implementing acts and two delegated acts) required at the very start of the design and development process.

For implementing acts, a committee was established under Article 74 of Regulation (EU) 2019/817 and Article 70 of Regulation (EU) 2019/818.

For the preparation of the necessary delegated acts, an expert group was established in accordance with Article 73 of Regulation (EU) 2019/817 and Article 69 of Regulation (EU) 2019/818.

## 3. Monitoring implementation by Member States and Union agencies

The Interoperability Regulations were identified as of high priority under the *Joint Declaration on the EU's legislative priorities for 2018-19*. Besides the priority identified during the legislative process, the importance of implementation of the Regulations needed to be recognised. To achieve full implementation, Member States, Union agencies and the Commission have to advance together in order to avoid a situation whereby the lack of action by any one of them leads to a delayed entry into operation for all.

[3] Report on the development of interoperability (2019-307).

With this in mind, the Commission began a series of forum meetings to bring together all involved partners to discuss how to advance preparation and readiness, and to identify risks and solutions in the interests of all. The aim was to take all the measures necessary to meet the target of having all the EU information systems fully aligned with the interoperability framework by the end of 2023. In addition to the Member States and Schengen associated countries, and the relevant Union agencies (eu-LISA, the European Border and Coast Guard Agency and Europol), participation in the forum was extended to other interested parties: the European Parliament and the Council, the EU Counter-Terrorism Coordinator, the European Union Agency for Law Enforcement Training, the European Asylum Support Office, the EU Agency for Fundamental Rights and the European Data Protection Supervisor.

The first forum was held in March 2019, once provisional agreement had been reached between the European Parliament and Council during the interinstitutional discussions. The forum acknowledged the immediate priority of focusing on full implementation of the new architecture for EU information systems for borders, migration and security. To support this, the Commission had envisaged a scoreboard in view of establishing effective monitoring and coordination arrangements. The aim was to adopt a light-touch approach working with national coordinators, who should ensure that all stakeholders are fully aware. Particular attention had to be given to financial and human resource needs, including training of end-users so that the implementation respects the schedule. It was also acknowledged that the eu-LISA management board had a technical coordination responsibility under the various pieces of legislation, and that the Justice and Home Affairs Council should regularly include on its agenda the state of play of the implementation.

In November 2019, the second forum acknowledged the value of meeting on a regular basis, and of the scoreboard as a tool for helping all – Member States, Union agencies and the Commission – to continue to progress together in developing and implementing the new IT architecture for borders, migration and security. Financial and human resource needs continued to be identified as a major issue. Therefore, it was suggested that all involved parties should prepare indicative multiannual resource plans. The Commission also proposed to develop a platform to gather information, including on best practices, and make it readily available to all to facilitate exchanges and progress. It was also recognised that as implementation progressed, greater focus would have to be given to operational and practical implementation.

A third forum took place – by videoconference – in May 2020. The Commission provided its assessment of the overall state of play based on a scoreboard covering the major requirements of implementation:

- Implementation has progressed over the past year but challenges remain. Member States should ensure high-level political support.
- Member States should finalise their assessment of the necessary national legislation and prepare it accordingly.
- Overall, good progress was noted on governance arrangements.
- Member States should rapidly estimate their resourcing needs and secure them.

In parallel to the implementation of the Interoperability Regulations, related development of individual IT systems, both existing and new, are also ongoing. As the new overall architecture is developed, it is vital for the implementation of the Interoperability Regulations that all the individual systems are fully operational too. Concerning progress on the individual systems, the Commission expressed concerns about the results regarding the Entry/Exit System development. Although the testing period is planned to start by the end of this year, Member States indicated a low level of readiness for implementation of the system at national level. This could have negative impacts on its start of operations. In light of this, Member States should speed up the internal procedures to mobilise the necessary human resources, and to speed up the procurement process, due last year, for the adaptation of their national systems in view of connecting to the central Entry/Exit System.

The forum was also the occasion for some to raise concerns prompted by the Covid-19 crisis, indicating that this could lead to some delays, notably regarding the start of operations of the Entry/Exit System. Indeed, impacts on the development of the EU information systems, such as the Entry/Exit System, may have repercussions on the development of the interoperability components. However, such impacts are not linear, meaning that while a one-month delay to the start of operations for one IT system should potentially imply a delay of up to one month for the start of operations of the interoperability components, it is also possible that the delay would not delay their start of operations.

Given the current situation, a degree of uncertainty remains for all involved actors as to the effect of the Covid-19 crisis on ongoing projects. The Commission intends to engage with eu-LISA and the Member States in the coming months in order to hold a detailed discussion on the possible impacts of the crisis at the next forum, scheduled for autumn 2020.

During the reporting period, the Council Presidencies continued to show their commitment to implementation, with some holding their own conferences to reach the wider audience concerned. The Commission welcomes such initiatives by Presidencies.

## 4. Training needs

Throughout the discussions in the three Forum meetings, it has repeatedly been emphasised that interoperability represents more than an IT project. End-users – border guards, asylum authorities, police officers – will need to know exactly how to access information available to them. Training of the staff concerned has been constantly raised as a necessity. Prompted by this awareness, the Commission undertook to organise a *Train the Ambassadors* event in March 2020, with the aim to provide material to responsible Member State entities to enable them to inform and instruct end-users on the use of the interoperability framework and components. While the physical training event could not take place because of the Covid-19 crisis, the Commission made training material available digitally.

## 5. Costs and Risks

The Legislative Financial Statement annexed to the European Commission's proposals for the two Interoperability Regulations reserved an amount of EUR 11,954,000 for the interoperability development in 2020. As mentioned in eu-LISA's 2nd Interoperability

Progress Report[4] of June 2020, an amount of EUR 1,718,606 has been so far utilised to support interoperability preparation activities.

Under the Internal Security Fund, there is no budget allocated to Member States in 2020 specifically for interoperability. Under the future Multiannual Financial Framework, scheduled to cover the period 2021-2027, EUR 136.3 million is proposed for Member States to cover the changes to their national systems in order to use the interoperability components. These funds are an allocation supporting Member States in their projects and are not a reimbursement of actual incurred costs. As such, these budgets do not face the same risk of having to meet requests for additional funding as the ones attributed to the Union agencies entirely financed by the budget of the Union.

As regards risks of overruns, the Covid-19 crisis will inevitably have an impact on the duration of some individual parts of the overall project to implement the new architecture for EU information systems for borders, migration and security. This impact is currently being assessed in terms of the planned schedule. A longer project duration will likely increase costs. However, as the interoperability development has only just started, there is still room for manoeuvre to mitigate the effect on the overall schedule and cost. At the time of publication of the report, the interoperability project is still on schedule and within its initial budget estimate.

## 6. Conclusion

In light of the general commitment by all Member States, Schengen associated countries and Union agencies to ensuring full implementation of the Interoperability Regulations, the Commission continues to coordinate and monitor the actions of all involved with a view to having full availability of the new and upgraded IT systems and the interoperability components by the end of 2023.

As noted above, work on the implementation of the Interoperability Regulations is so far on track. However, the implementation of the interoperability framework requires all actors to advance together on all EU information systems and interoperability components. The possibility of delays arising from the Covid-19 crisis, notably on the development of the Entry/Exit System, will have to be kept under surveillance and the Commission will engage with all concerned to gain the clearest possible scenario of potential delays that could arise and to keep any such delays to a minimum to respect the implementation timeline. The Commission is committed to do its utmost, together with the Member States and the Union agencies, to ensure that any impact arising from the Covid-19 crisis on the target date for full implementation is as limited as possible, and that the overall costs envisaged remain within the estimated budget set out in the Legislative Financial Statement.

[4] Report on the development of interoperability (2020-148).