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

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- 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 Your contribution will not be published, but it may be used internally within the Commission for statistical and analytical purposes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:

Ministère de l'intérieur

* Address of your organisation:

Place Beauvau 75008 PARIS

* Email address of your organisation:

sec.diplomatie@interieur.gouv.fr

* 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

- 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 e ntering 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

Les empreintes digitales (a minima 8 doigts) sont nécéssaires pour l'intéropérabilité avec les fichiers existants. Il est indispensable de se doter d'une biométrie "forte", c'est à dire assez performante pour réaliser des identifications fiables aux frontières mais aussi sur le territoire, et des authentifications plus rapides (moins de faux rejets) et plus fiables (moins de personnes entrées à tort) pour les entrées subséquentes et pour les sorties.

* 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

La biométrie permet une identification presque instantanée et incontestable, les données biométriques étant par définition uniques. En conséquent, la fiabilité de ces données réduit drastiquement les risques d'erreur et contribue à accélérer les flux de passage à la frontière.

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
- [ ] This process implies a pre-vetting of its beneficiaries and is therefore secure
- [x] Other

* Please explain: (maximum 500 characters)

Text of 1 to 500 characters will be accepted

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Il doit comporter un pré-enregistrement dans le RTP ou une vérification
préalable de type Fast-lane. Le traitement des demands d'enregistrement
dans RTP implique, pour le garde-frontières ou le consulat, une charge
supplémentaire. Cette nouvelle mission devra donc être strictement
limitée. La France soutient la mise en place de systèmes automatisés de
type "Fast-lane for all",  directement utilisables parce qu'ils
réexploitent des bases de données pré-existantes (VIS et EES).
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* 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

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Tirer profit des bases de données préexistantes est pertinent car il
permet de remployer les données de controle déjà effectués et d'ouvrir
rapidement le dispositif à un large nombre de voyageurs déjà controlés.
Le dispositif sera ainsi bénéfique pour le garde-frontières et pour le
voyageur. L'utilisation du kiosks par le voyageur reste toujours sous la
supervision d'un garde-frontière qui peut, le cas échéant, demander au
voyageur de se présenter à une aubette de contrôle.
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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

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Cette durée de 6 mois est préjudiciable à deux niveaux :
- Pour le voyageur qui devra se ré-enrôler très régulièrement (dès lors
que son dernier voyage datera de plus de 6 mois);
- Pour l'un des intérêts du dispositifs, à savoir, notre souhait
d'octroyer un accès des services répressifs à la base de données, selon
de conditions strictement encadrées de consulation.
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* 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

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Une durée de 5 ans est satisfaisante et suffisante, elle permet une
action efficace des autorités administratives ; il s'agit d'ailleurs de
la durée de conservation retenue pour les données enregistrées dans le
système d'information sur les visas (VIS). L'intéropérabilité de ces
systèmes, tous deux à des fins de la lutte contre l'immigration
illégale, plaide en faveur d'une harmonisation entre eux de la durée de
conservation des données.
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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

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Les entrées et sorties de certains voyageurs sont des informations
souvent déterminantes et pertinentes dans les enquêtes de police, ce qui
justifie l'accès de ces services à ce système entrée-sortie, dès son
démarrage.
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* 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.
- [ ] 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.
- [ ] Searches should only be possible in specific cases under clearly defined circumstances. The proposal should exclude searches on a systematic basis.
- [ ] The data should be accessible for law enforcement purposes for a predefined limited period of time.
- [ ] 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.
- [ ] 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
- [x] Other

* Please explain: (maximum 500 characters)

Text of 1 to 500 characters will be accepted

La limitation aux finalités de lutte contre le terrorisme et autres infractions pénales graves est cohérente avec les instruments existants dans le même domaine (VIS, EURODAC, SIS II) et avec la jurisprudence. L'EES doit donc avoir une finalité d'investigation policière à titre subsidiaire. Les agents habilités doivent pouvoir accéder aux données nécessaires à l'accomplissement de leurs missions, dans le respect des garanties en matière de protection des données personnelles.

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

Les ressortissants de pays tiers doivent pouvoir prouver à tout moment qu'ils sont en situation régulière sur le territoire, lorsqu'ils font l'objet d'un contrôle d'identité. Les forces de l'ordre sur le territoire national (police et gendarmerie), les consulats (dans le cadre de l'instruction des demandes de visa) doivent pouvoir connaitre la date d'entrée d'un étranger. Les préfectures chargées de reconnaitre, ou non, le droit au séjour à un étranger doivent vérifier s'il est entré régulièrement (date et les conditions d'entrée). Les transporteurs doivent aussi pouvoir vérifier les dates d'entrée et de sortie des voyageurs pour s'assurer qu'ils remplissent les conditions d'entrée dans leur pays de destination avant de les laisser embarquer. Dans le cas contraire les transporteurs s'exposent à une amende.

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

- Cas des demandeurs d'asile : les problématiques sont différentes. Rien n'empêche un "demandeur d'asile" de se faire enregistrer dans le système Entrée/sortie et de demander l'asile une fois arrivé sur le territoire.
- D'autres pays appliquent déjà un système similaire (le "visa waver" américain couplé au "Trusted Traveler Program").
- L'enregistrement préalable ne garantira pas l'entrée régulière sur le territoire Schengen.

* 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

La France souhaite donner la possibilité, sur une base volontaire, aux bénéficiaires de la libre circulation de s'enrôler dans le système Smart Borders pour pouvoir bénéficier de l'ensemble des facilités offertes par ce dispsitif. Il est à noter qu'aucun enrôlement ne serait nécéssaire dans le cas d'un détenteur de passeport biométrique, la lecture de la puce étant suffisante. Cette extention permettrait également une optimisation de l'usage des équipements de controles aux frontières, ainsi q'une rentabilisation des investissements réalisés.
dsè lors, les garde-frontières, ayant en toute situation un rôle de supervision des passages de tous les voyageurs, pourraient renforcer leur contrôle sur les voyageurs considérés comme " none bona fide".

* 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

Si les voyageurs franchissent plus rapidement les frontières dans des conditions particulièrement sûres, cela ne peut que les encourager à voyager plus souvent dans l'espace Schengen et donc à soutenir l'activité des opérateurs et agents économiques du secteur. ce futur outil preservera aussi l'espace de libre circulation, également attractif notamment pour les sociétés étrangères.
Pour faciliter les contrôles des compagnies avant l'embarquement, la France propose par ailleurs un système d'information, bénéficiant notamment aux voyageurs et aux transporteurs dans le cade de leurs oligations, simple, clair, peu coûteux et donc efficace : l'apposition d'une étiquette 2D dans le passeport.

* 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

Les frontières intelligentes peuvent avoir une réelle plus-value de première ordre pour des frontières plus sûres, ce qui est indispensable dans le contexte actuel (cf les conclusions du Conseil européen du 15 octobre 2015 relatives au renforcement de la protection des frontières extérieures de l'UE) et une fluidité des franchissements des frontières, ce qui est nécessaire
pour faire face aux hausses constantes du nombre de voyageurs. Pour avoir une réelle utilité dans ce sens, au regard du leur coût financier, ces systèmes doivent être biométriques dès leur lancement (sinon l'identification sur le territoire des overstayers ne sera pas possible) et intéropérables avec les fichiers pré-existants (pour lutter contre l'immigration irrégulière et contre le terrorisme et infractions pénales graves) ; dans cette perspective, les empreintes digitales doivent impérativement être enregistrées dans ces systèmes. La sécurité et la fluidité doit pouvoir bénéficier à tous les voyageurs y compris les bénéficiaires de la libre circulation.

Contact

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