

Vice President Franco Frattini

European Commissioner responsible for Justice, Freedom and Security

Providing Europe with the tools to bring its border management into the 21st century

*Check Against Delivery
Seul le texte prononcé fait foi
Es gilt das gesprochene Wort*

Ministerial Conference on the Challenges of the EU External Border Management

Brdo (Slovenia), 12 March 2008

Today we have had a long and interesting discussion on the three proposals contained in the border package that the Commission adopted on 13 February 2008.

The three proposals are the following:

- The first proposal, which is the most ambitious one of the three, contains an innovative "set of measures", using new technologies, which Europe needs to implement in order to bring its border management strategy into the 21st century
- The second proposal examines the parameters within which a European Border Surveillance System (EUROSUR) could be developed.
- The third proposal focuses on a review of the tasks of Frontex.

Why does Europe need a new approach to border management? Europe needs a new approach to border management to better face the challenges posed by globalisation, increased mobility and ever changing security threats. We need to be one step ahead to the increasingly better organised networks of terrorists and criminals who have discovered the lucrative trafficking in human beings, drugs and weapons.

Innovative and effective border controls have to strike a difficult balance between ensuring the free movement of a growing number of people across borders and guaranteeing greater security for Europe's citizens. Border controls therefore have to focus more on potential challenges, be flexible enough to adapt to unexpected circumstances and be easy to operate by border guards.

The Entry-Exit System

Organised crime groups are getting better and better at bypassing border controls to traffic human beings into the European Union. At the same time, migratory pressure remains high, especially at the southern maritime border of the Union. People continue to put their own lives at risk by trying to steal into the EU illegally. We have to address these issues with resolve.

In recent weeks, I have read that several journalists, opinion-makers and experts question the need to extend the use of biometric identifiers to tighten checks at the EU's external borders. My answer to these concerns is clear and simple: take a look at the results of EURODAC.

Before EURODAC, breaking the rules governing Europe's asylum system was quite easy. For example, false asylum seekers, often encouraged by human traffickers, tried to submit multiple asylum applications in different European countries in a bid to obtain recognition of a status that would grant them international protection. Before EURODAC, therefore, Europe did not have the "necessary toolbox" to prevent this sort of fraud. In a nutshell, the system was unable to detect cases of fraud and so-called asylum shopping.

With the advent of EURODAC, false asylum seekers gradually understood that they could no longer cheat Europe's asylum system and started to abandon the practice of submitting multiple asylum requests. False asylum seekers realised that the EURODAC system, based on biometric identifies (i.e. fingerprints), could not be beaten.

The results are there before us. According to the statistical data provided by the European Commission and the High Commissioner for Refugees (UNHCR), in the last 5 years asylum applications have significantly dropped. Yet the number of refugees who have had access to international protection has not been reduced as a result of EURODAC. Exactly the opposite has happened. The claims of genuine asylum seekers are better protected by the EURODAC system, which is geared

towards preventing fraud and abuse. In other words, national authorities now have more time to focus on the merits of asylum requests without wasting time on examining false asylum applications. With EURODAC, you are almost 100% certain that false asylum seekers and refused asylum applicants will not try to submit their applications to another Member State. The risk of being discovered is too high and thus they prefer not to take the chance.

The experience gained with EURODAC shows that there has been no misuse or misconduct in data handling. Access to EURODAC data is governed by stringent rules and restricted to the competent authorities. I do not see why the future handling of entry-exit data should not be governed by the same data protection framework, which, as I said, has proved to be good at ensuring privacy and efficient management of data.

We all know that most illegal immigrants are either third-country nationals who have overstayed the duration of their visa or third-country nationals who, being exempted from visa obligation, stay in Europe in the hope of finding a job, in particular in Europe's flourishing black economy.

Today border guards and police authorities can do very little against this growing phenomenon, which engenders fear and insecurity among Europe's citizens. Today Member States' authorities rely solely on the stamping obligation in passports to keep track of the exact dates of entry and exit of third-country nationals crossing their borders. This is not enough.

At present, police authorities have limited means of identifying a third-country national in the street if he/she does not carry an identity document. Let me give you an example. If a third-country national is stopped in a street and says that his/her passport has recently been stolen or she/he has lost her/his residence permit, police authorities are left with the choice of either letting that person go or taking that person to the police station.

The identification process will be long regardless and, sometimes, unproductive. Without the passport, in particular in the case of third-country nationals exempted from visa obligation, police authorities cannot establish, with any degree of accuracy, either the entry date of a third-country national not subject to visa obligation or that person's entry gate to Europe, which does not necessarily coincide with the country where he/she was found undocumented.

The entry-exit system aims to register the dates and places of entry and exit of third-country nationals admitted for short stays to the Schengen area. It will have clear added value in identifying overstayers, which is, as I said earlier, the biggest problem in terms of illegal immigration. The entry-exit system will have an in-built time device, which will automatically alert border guards to whether a third-country national has exceeded the duration of his/her allowed stay in Europe.

If it is to meet its purpose in full, the entry-exit system should record movements of visa holders and non-visa holders alike and be applied consistently at all external border crossing points. The system should use biometrics to ensure a precise match between entry and exit records of each individual.

Where non-visa holders are concerned the use of biometrics will also make it possible to identify undocumented persons within the Schengen area. This fills another gap in our existing tools. Police authorities will have a mobile device, which will enable police officers to take fingerprints on the spot. In a few seconds, the police will be able to retrieve the data of any third-country national who has crossed Europe's external borders, thereby catching anyone who has lied about his/her residence status.

Compliance will come with time. As with EURODAC, third-country nationals will gradually understand that Europe's new border management system, based on biometric identifiers, cannot be beaten. As a result, police will have more effective tools to deal with illegal immigration, which seriously undermines the credibility of Europe's forward-looking strategy on legal migration. As soon as the system starts to operate, third-country nationals will realise that the only way of getting into Europe is via legal channels. This will also have a very positive "side effect", namely, reducing the number of people trying to cross the Mediterranean and the Atlantic in rickety boats, as they will be aware that their biometric identifiers will be immediately taken and thus they will have less chance of slipping through the net.

This police control will also be facilitated by the introduction of a single work-residence permit, as I proposed in my framework directive last October. The single permit will have the distinct advantage of enabling the competent authorities to check, more rapidly and more easily, whether a third-country national is residing and working legally in Europe. In other words, Europe will finally have a residence permit that ensures that legal migrants can avoid long checks on their status, while enabling the competent authorities to immediately identify the status of a migrant. This is one of the reasons why I urged the Council to adopt the framework directive swiftly. Obviously, the European Parliament has to give its opinion on the directive within a reasonable time frame.

My final point is on the need for third countries to have biometric passports. To make it easier for their own citizens to travel, third countries engaged in visa negotiations with Europe need to start the roll-out of biometric passports to signal their political will to cooperate and to strengthen the link between identity documents and their holders. Biometric passports will make it much easier to overcome any political resistance to visa-free dialogue.

Registered Traveller Programme

The entry/exit system could be combined with a Registered Traveller Programme, thereby facilitating travel for bona fide persons. This kind of system would cover all third-country nationals, whether they are subject to a visa requirement or not. It could allow bona fide travellers such as business travellers to benefit from simpler and faster checks than is the case today.

Since the US has acquired extensive knowledge on Registered Traveller Programmes, I believe that it would be politically relevant for Europe to start negotiating with the USA on the setting-up of a new, single transatlantic traveller programme. Obviously, Europe and the USA will have to agree on common criteria in order to make their respective systems interoperable.

For Europe, efforts should be geared towards developing a set of standards and features that could offer tangible benefits to its own citizens and economies. If EU Member States and the USA agree, in the coming months we could possibly launch a pilot project involving a limited number of Member States and the USA. Of course, this pilot project will have to be fully compliant with Europe's data protection framework.

Electronic System of Travelling Authorisation (ESTA)

A third building block of Europe's new, coherent strategy on border management will be the Electronic System of Travel Authorisation (ESTA). This system, which would concern third-country nationals not requiring a visa, will allow national authorities to make an individual assessment of each passenger before he/she embarks on an aircraft heading to Europe.

How will ESTA work? Each person exempted from visa obligation will be required to log on to a given Internet site to ask for permission to travel. If the person is a bona fide traveller, he/she will receive a number very rapidly. The same number will then be given to the border guards of the country of destination. If the Internet is not available, the person can ask a travel agency to run the procedure before issuing the air ticket. Incidentally, this is exactly the same procedure I have to follow if I want to go to Australia today. If there is a problem with a given passenger, he/she will receive an electronic message saying that she/he needs to go to the consulate before travelling to Europe.

We consider visas to be outdated instruments in a globalized world with increased mobility where we are facing new security challenges, but also have the potential to use the most modern technology. With visas, each person, and the country as a whole, is subject to the same control procedure. With visas, you have to go to a given consulate, which is not always near where a third-country national lives. This means that a third-country national has to pay for his/her travel to the city where the consulate is and then has to queue up for hours. This is a very heavy burden on third-country nationals, who generally have limited financial means.

With the new electronic system of travel authorisation, national authorities will have an individual-based assessment. This means that a country will no longer be added to the list of countries subject to visa obligation, as the new system, for instance, can prevent any third-country nationals who may pose a threat to public security and order from travelling. This will increase Europe's security. With the new electronic system of travel authorisation, bona fide third-country nationals will no longer have to go to the consulate in person and spend long hours waiting to be seen.

In developing Europe's new architecture on border management, sharing data and information will hold the key to tackling security threats. Interoperability, connectivity and synergy between different systems and databases is vital to providing national authorities with the information they need to discharge their institutional duties.

EUROSUR

The overall objective of this Communication is twofold:

- To examine the parameters within which a European Border Surveillance System (EUROSUR) could be developed, and
- To propose a roadmap to Member States to help set up such a "system of systems".

The system will cover the land and sea borders of the EU. Priority will be given to the eastern and southern borders. A link to Eurocontrol, with regard to air borders, will be explored.

This new system will pursue the following aims:

- Reducing the number of immigrants who enter the EU undetected;
- Lowering the death toll of immigrants by rescuing more lives at sea;
- Increasing EU internal security by preventing cross-border crime.

This Communication therefore set out to develop a common technical framework for the Member States, which will help them to increase situational awareness at their external borders and to improve the reaction capability of their authorities. This will be done in three phases:

- PHASE 1: Upgrading and extending national border surveillance systems and interlinking them in a communication network, linking Member States and FRONTEX.

- PHASE 2: Targeting research and development to improve the performance of surveillance tools (e.g. satellites), developing common applications for these tools at EU level, and including them in the communication network.
- PHASE 3: Creating a common information-sharing environment for the EU maritime domain through an integrated network of reporting and surveillance systems.
- The concept of EUROSUR observes the areas of jurisdiction of Member States and is fully coordinated with the Integrated Maritime Policy of the EU. The Communication identifies a number of studies to be carried out in the course of 2008/2009, which will allow the Commission to return to the Council in spring 2009 with more detailed concepts, including estimates of the financial impacts of each of the three phases.

FRONTEX

This Communication is the Commission's response to the request made by the European Council in the Hague Programme to present a political evaluation of the Frontex Agency.

This evaluation focuses on a review of the tasks of the Agency:

- a. whether it should take on board other tasks related to border management (i.e. customs),
- b. how well the teams deployed by Frontex are functioning, and
- c. if there is a need for a European border guard system.

From the outset it should be highlighted that the Frontex Agency can be considered a 'success story'. Its numerous achievements, accomplished in a very short period of time, are a glowing testimony to the Agency's success (Frontex became operational in October 2005).

The Communication issues recommendations for the short to medium term and proposes ideas for the future development of the Agency in the longer term.

The most significant ideas for the short term relate to:

- a. using the full potential of the available technical equipment put at the disposal of Frontex by Member States,
- b. establishing specialised branches of the Agency in critical areas, and
- c. merging existing joint operations with the European Patrols Network in the Mediterranean area.

Further improvements are suggested regarding the training of national border guards, the capability of Frontex to enhance its risk analysis capacity and to perform joint risk analyses with Europol, international organisations and the relevant third countries, the follow-up to research activities of relevance to the control and surveillance of external borders and the assistance provided by Frontex in organising joint return operations.

In addition, the report recommends that the recently established (August 2007) Rapid Border Intervention Teams (RABITs) should greatly benefit from technical equipment owned by the Frontex Agency.

From a longer-term perspective, the crucial role of Frontex in the development of a European Union integrated border management system needs to be underlined. The key point is to see how Frontex can provide added value both to the EU's

integrated border management as a whole and to the separate components of this concept (i.e. relations with third countries, cooperation with other competent authorities and EU Agencies).

As a result, two major strands of reflection need to be engaged: on the one hand, the increasingly important cooperation with third countries and, on the other hand, the horizontal integration of measures being put in place at the borders, i.e. in a bid to improve cooperation between customs and other border control authorities.

A further reflection on the allocation of financial and human resources to the activities of the Agency and on the cost-effectiveness of the current mechanisms operated by Frontex should be initiated with all stakeholders. This should go hand in hand with the assessment of whether some of the tasks of national border guards could be transferred to border guards assigned to Frontex on a permanent basis.

Finally, I believe that Frontex needs to strengthen its transatlantic ties on border management. Closer cooperation with the Homeland Security Department is not only politically advisable but also necessary if Europe and the USA want to increase their mutual trust and work towards common goals: more security for their respective citizens by tightening checks at their external borders and more freedom within their internal, border-free areas. I hope that practical steps will be taken in the coming months to gear up cooperation between the two sides of the Atlantic.

These proposed measures also reflect the fundamental division of powers between the Union and its Member States. Member States remain the sole authority responsible for controlling their own borders. The role of the Union continues to focus on developing a common legislative framework, putting common large-scale IT systems in place, and cultivating practical cooperation between Member States.

This border package ushers in a new era of border controls. Building on previous experience, this package is a leap into the future. Europe must help border guards to perform border controls more effectively. This does not mean turning Europe into a fortress. It simply means streamlining border controls for bona fide travellers while making the lives of human traffickers, drug smugglers and terrorists much more difficult. This is what the border package is for.

Subject to the outcome of the discussions in the Council and the European Parliament, the Commission should be ready, in 2009-2010, to present the legislative proposals needed for the entry-exit system, the registered traveller programme and the electronic authorisation system, and for revision of the mandate of Frontex and, as necessary, the further development of Eurosur. These new measures could then come on stream between 2012 and 2015.