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NOTE

From: Presidency

To: Delegations

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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing a framework for interoperability between EU information systems (borders and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399 and Regulation (EU) 2017/2226

Delegations will find hereafter the text of the proposal for the aforementioned Regulation, as revised by the Presidency, based on the outcome of discussions at DAPIX: interoperability of EU information systems on 17-18 April and 2 May 2018, as well as on delegations' written comments.

Changes to the Commission proposal are marked in ***bold italics*** and ~~strikethrough~~.

New changes to the Commission proposal compared to ST 7651/18 are marked in ***bold italics underline*** and ~~strikethrough underline~~.

Delegations are invited to note that the corresponding recitals will be adjusted at a later stage.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on establishing a framework for interoperability between EU information systems (borders and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399 and Regulation (EU) 2017/2226¹

(...)

CHAPTER I General provisions

Article 1 *Subject matter*

1. This Regulation, together with [Regulation 2018/xx on interoperability police and judicial cooperation, asylum and migration], establishes a framework to ensure the interoperability between the Entry/Exit System (EES), the Visa Information System (VIS), [the European Travel Information and Authorisation System (ETIAS)], Eurodac, the Schengen Information System (SIS), and [the European Criminal Records Information System for third-country nationals (ECRIS-TCN)]² in order for those systems and data to supplement each other.
2. The framework shall include the following interoperability components:
 - (a) a European search portal (ESP);
 - (b) a shared biometric matching service (shared BMS);
 - (c) a common identity repository (CIR);
 - (d) a multiple-identity detector (MID).

¹ General scrutiny reservations by: **CY, CZ, DE, ES, FI, FR, IT, LT, LV, MT, NL, PL, PT, SE, SK, SI, UK, CH**. Parliamentary reservation: **PL, FR**.

² **NL** scrutiny reservation on Articles relating to ECRIS-TCN in the interoperability solution

3. This Regulation also lays down provisions on data quality requirements, on a Universal Message Format (UMF), on a central repository for reporting and statistics (CRRS) and lays down the responsibilities of the Member States and of the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA), with respect to the design and operation of the interoperability components.
4. This Regulation also adapts the procedures and conditions for Member State ~~law enforcement~~ **designated** authorities and for the European Union Agency for Law Enforcement Cooperation (Europol) access to ~~the Entry/Exit System (EES), the Visa Information System (VIS), [the European Travel Information and Authorisation System (ETIAS),]~~ and Eurodac for the purposes of the prevention, detection **and or** investigation of terrorist offences or of other serious criminal offences ~~falling under their competence~~.

Article 2
Objectives of interoperability

1. By ensuring interoperability, this Regulation ~~shall have~~ **has** the following objectives:
 - (a) to improve the management of the external borders;
 - (b) to contribute to preventing and combating irregular migration;
 - (c) to contribute to a high level of security within the area of freedom, security and justice of the Union including the maintenance of public security and public policy and safeguarding the security in the territories of the Member States;
 - (d) to improve the implementation of the common visa policy; ~~and~~
 - (e) to assist in examining applications for international protection;
 - (f) ***in the event of a natural disaster or an accident, for humanitarian reasons, to assist in the identification of unknown persons who are not able to identify themselves or unidentified human remains³.***
2. The objectives of ~~ensuring interoperability~~ **referred to in paragraph 1** shall be achieved ***in particular*** by:
 - (a) ensuring the correct identification of persons;
 - (b) contributing to fighting identity fraud;
 - (c) improving and harmonising data quality requirements of the respective EU information systems ***while respecting the data processing requirements of the legal bases of the individual systems, data protection standards and the data owner principles***;

³ SE scrutiny reservation.

- (d) facilitating and **supporting** the technical and operational implementation by Member States of existing and future EU information systems;
- (e) strengthening and simplifying and making more uniform the data security and data protection conditions that govern the respective EU information systems;
- (f) streamlining the conditions for ~~law enforcement~~ access **by designated authorities** to the EES, the VIS, [the ETIAS] and Eurodac;
- (g) supporting the purposes of the EES, the VIS, [the ETIAS], Eurodac, the SIS and [the ECRIS-TCN system].

Article 3
Scope

1. This Regulation applies to ~~{the Entry/Exit System (EES)}, the Visa Information System (VIS), [the European Travel Information and Authorisation System (ETIAS)] and the Schengen Information System (SIS)}~~.
2. This Regulation applies to persons in respect of whom personal data may be processed in the EU information systems referred to in paragraph 1.

Article 4
Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) ‘external borders’ means external borders as defined in Article 2(2) of Regulation (EU) 2016/399;
- (2) ‘border checks’ means border checks as defined in Article 2(11) of Regulation (EU) 2016/399;
- (3) ‘border authority’ means the border guard assigned in accordance with national law to carry out border checks **as defined in point 11 of Article 2 of Regulation (EU) 2016/399**;
- (4) ‘supervisory authorities’ means the supervisory authority established in accordance with Article 51(1) of Regulation (EU) 2016/679, and the supervisory authority established in accordance with Article 41(1) of Directive (EU) 2016/680;
- (5) ‘verification’ means the process of comparing sets of data to establish the validity of a claimed identity (one-to-one check);

- (6) ‘identification’ means the process of determining a person’s identity through a database search against multiple sets of data (one-to-many check);
- ~~(7) ‘third country national’ means a person who is not a citizen of the Union within the meaning of Article 20(1) of the Treaty, or a stateless person or a person whose nationality is unknown;~~
- (8) ‘alphanumeric data’ means data represented by letters, digits, special characters, spaces and punctuation marks;
- (9) ‘identity data’ means the data referred to in Article 27(3)(a) to (h);
- (10) *‘dactyloscopic data’ means fingerprints images, images of fingerprint latents, palm prints, and palm prints latents⁴ which due to their unique character and the reference points contained therein enable accurate and conclusive comparisons on a person's identity;*
~~‘fingerprint data’ means the data relating to the fingerprints of an individual;~~
- (11) ‘facial image’ means digital images of the face;
- (12) ‘biometric data’ means ~~fingerprint~~ *dactyloscopic* data *and/or* facial image;
- (13) ‘biometric template’ means a mathematical representation obtained by feature extraction from biometric data limited to the characteristics necessary to perform identifications and verifications;
- (14) ‘travel document’ means a passport or other equivalent document entitling the holder to cross the external borders and to which a visa may be affixed;
- (15) ‘travel document data’ means the type, number and country of issuance of the travel document, the date of expiry of the validity of the travel document and the three-letter code of the country issuing the travel document;
- ~~(16) ‘travel authorisation’ means travel authorisation as defined in Article 3 of the [ETIAS Regulation];~~
- ~~(17) ‘short stay visa’ means visa as defined in Article 2(2)(a) of Regulation (EC) No 810/2009;~~
- (18) ‘EU information systems’ means the large-scale IT systems *operationally* managed by eu-LISA;

⁴ *NB: Same definition as in Council Decision 2008/616/JHA.*

- (19) 'Europol data' means personal data ***processed by*** ~~provided to~~ Europol for the purpose referred to in Article 18(2)(a) ***to (c)*** of Regulation (EU) 2016/794;⁵
- (20) 'Interpol databases' means the Interpol Stolen and Lost Travel Document database (SLTD) and the Interpol Travel Documents Associated with Notices database (Interpol TDAWN);
- (21) 'match' means the ***result of an automated comparison between alphanumeric data and/or biometric templates*** ~~existence of a correspondence established by comparing two or more occurrences of personal data recorded or being recorded in an information system or database;~~
- (22) 'hit' means the ***positive result after individual review of a match by non-automated means / by human intervention*** ~~confirmation of one match or several matches;~~
- (23) 'police authority' means 'competent authority' as defined in Article 3(7) of Directive 2016/680;
- (24) 'designated authorities' means the ~~Member State designated~~ authorities referred to in Article 29(1) of Regulation (EU) 2017/2226, Article 3(1) of Council Decision 2008/633/JHA, [Article 43 of the ETIAS Regulation] and [Article 6 of the Eurodac Regulation];
- (25) 'terrorist offence' means an offence under national law which corresponds or is equivalent to one of the offences referred to in Directive (EU) 2017/541;
- (26) 'serious criminal offence' means an offence which corresponds or is equivalent to one of the offences referred to in Article 2(2) of Framework Decision 2002/584/JHA, if it is punishable under national law by a custodial sentence or a detention order for a maximum period of at least three years;
- (27) '***Entry/Exit System***' ('EES') means the Entry/Exit System as referred to in Regulation (EU) 2017/2226;
- (28) '***Visa Information System***' ('VIS') means the Visa Information System as referred to in Regulation (EC) No 767/2008;
- (29) [***the European Travel Information and Authorisation System***] ('ETIAS') means the European Travel Information and Authorisation System as referred to in the ETIAS Regulation];
- (30) 'Eurodac' means Eurodac as referred to in the [Eurodac Regulation];

⁵ **BE** scrutiny reservation.

- (31) **'Schengen Information System'** ('SIS') means the Schengen Information System as referred to [in the Regulation on SIS in the field of border checks, Regulation on SIS in the field of law enforcement and Regulation on SIS in the field of illegal return];
- (32) ['**ECRIS-TCN System**' means ~~the European Criminal Records Information System~~ **the centralised system for the identification of Member States** holding conviction information on third-country nationals and stateless persons as referred to in the ECRIS-TCN System Regulation];
- ~~(33) '**European search portal**' ('ESP') means the European search portal as referred to in Article 6;~~
- ~~(34) '**shared biometric matching service**' ('shared BMS') means the shared biometric matching service as referred to in Article 15-12;~~
- ~~(35) '**common identity repository**' ('CIR') means the common identity repository as referred to in Article 17;~~
- ~~(36) '**multiple identity detector**' ('MID') means the multiple identity detector as referred to in Article 25;~~
- ~~(37) '**central repository for reporting and statistics**' ('CRRS') means the central repository for reporting and statistics as referred to in Article 39.~~
- ~~(38) '**Universal Message Format**' ('UMF') means **Universal Message Format** as referred to in Article 38.~~

Article 5
Non-discrimination

Processing of personal data for the purposes of this Regulation shall not result in discrimination against persons on any grounds such as **gender** sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation. It shall fully respect human dignity and integrity. ~~Particular attention shall be paid to children, the elderly and persons with a disability.~~

CHAPTER II

European Search Portal

Article 6 *European search portal*

1. A European search portal (ESP) is established for the purposes of ensuring that Member State authorities and EU **agencies** ~~bodies~~ have fast, seamless, efficient, systematic and controlled access to the EU information systems, the Europol data and the Interpol databases that they need to perform their tasks in accordance with their access rights and of supporting the objectives of the EES, the VIS, [the ETIAS], Eurodac, the SIS, [the ECRIS-TCN system] and the Europol data.
2. The ESP shall be composed of:
 - (a) a central infrastructure, including a **technical** search portal enabling the simultaneous querying of the EES, the VIS, [the ETIAS], Eurodac, the SIS, [the ECRIS-TCN system] as well as of the Europol data and the Interpol databases;
 - (b) a secure communication channel between the ESP, Member States and EU **agencies** ~~bodies~~ that are entitled to use the ESP in accordance with Union law;
 - (c) a secure communication infrastructure between the ESP and the EES, the VIS, [the ETIAS], Eurodac, the Central-SIS, [the ECRIS-TCN system], the Europol data and the Interpol databases as well as between the ESP and the central infrastructures of the common identity repository (CIR) and the multiple-identity detector (**MID**).
3. eu-LISA shall develop the ESP and ensure its technical management.

Article 7 *Use of the European search portal⁶*

1. The use of the ESP shall be reserved to the Member State authorities and EU **agencies** ~~bodies~~ having access **at least to one of the following systems or databases**: the EES, [the ETIAS], the VIS, the SIS, Eurodac and [the ECRIS-TCN system], to the CIR and the ~~multiple-identity-detector~~ **MID** as well as the Europol data and the Interpol databases in accordance with Union or national law governing such access.
2. The authorities referred to in paragraph 1 shall use the ESP to search data related to persons or their travel documents in the central systems of the EES, the VIS and [the ETIAS] in accordance with their access rights under Union and national law. They shall also use the ESP to query the CIR in accordance with their access rights under this Regulation for the purposes referred to in Articles 20, 21 and 22.

⁶ NL scrutiny reservation on the obligatory use of ESP.

3. The Member State authorities referred to in paragraph 1 may use the ESP to search data related to persons or their travel documents in the Central SIS referred to in the [Regulation on SIS in the field of border checks and of the Regulation on SIS in the field of law enforcement] **in accordance with their access rights under Union and national law**. Access to the Central SIS via the ESP shall be established through the national system (N.SIS) of each Member State in accordance with [Article 4(2) of the Regulation on SIS in the field of border checks and of the Regulation on SIS in the field of law enforcement].
4. The EU **agencies** ~~bodies~~ shall use the ESP to search data related to persons or their travel documents in the Central SIS.
5. The authorities referred to in paragraph 1 may use the ESP to search data related to ~~persons or their~~ travel documents in the Interpol databases in accordance with their access rights under Union and national law.

Article 8

Profiles for the users of the European search portal

1. For the purposes of enabling the use of the ESP, eu-LISA **in cooperation with Member States** shall create a profile for each category of user of the ESP in accordance with the technical details and access rights referred to in paragraph 2, including, in accordance with Union and national law:
 - (a) the fields of data ~~to be~~ used for querying;
 - (b) the EU information systems, the Europol data and the Interpol databases that shall and may be consulted and that shall provide a reply to the user; and
 - (c) the **fields of** data provided in each reply.
2. The Commission shall adopt **implementing** ~~delegated acts in accordance with Article 63~~ to specify the technical details of the profiles referred to in paragraph 1 for the users of the ESP referred to in Article 7(1) in accordance with their access rights⁷ **Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).**

⁷ NL: scrutiny reservation on the delegated act.

Article 9
Queries

1. The users of the ESP shall launch a query by ~~introducing~~ **submitting alphanumeric and/or biometric data** ~~in to~~ the ESP ~~in accordance with their user profile and access rights~~. Where a query has been launched, the ESP shall query simultaneously, with the data **submitted** ~~introduced~~ by the user of the ESP **and in accordance with the user profile and access rights**, the EES, [the ETIAS], the VIS, the SIS, Eurodac, [the ECRIS-TCN system] and the CIR as well as the Europol data and the Interpol databases.
2. The fields of data used to launch a query via the ESP shall correspond to the fields of data related to persons or travel documents that may be used to query the various EU information systems, the Europol data and the Interpol databases in accordance with the legal instruments governing them.
3. eu-LISA, **in cooperation with Member States**, shall implement an interface control document (~~ICD~~) based on the UMF referred to in Article 38 for the ESP.
4. The EES, [the ETIAS], the VIS, the SIS, Eurodac, [the ECRIS-TCN system], the CIR and the multiple-identity detector, as well as the Europol data **and the Interpol databases**, shall provide the data that they contain resulting from the query of the ESP.
5. When querying the Interpol databases, the design of the ESP shall ensure that the data used by the user of the ESP to launch a query is not shared with the owners of Interpol data.
6. ~~The reply to the~~ **The** user of the ESP shall ~~be unique~~ **receive one a reply** and ~~that~~ shall contain ~~all~~ **only** the data to which the user has access under Union **and national** law. ~~Where necessary, the reply provided by the ESP shall indicate to which information system or database the data belongs.~~
7. The Commission shall adopt an **implementing** ~~delegated~~ act ~~in accordance with Article 63~~ to specify the ~~content and~~ format of the ESP replies.⁸ **This implementing act shall be adopted in accordance with the examination procedure referred to in Article 64(2).**

⁸ NL: scrutiny reservation on the delegated act.

Article 10
Keeping of logs

1. Without prejudice to ~~{Article 46 of the EES Regulation (EU) 2017/2226}~~, Article 34 of Regulation (EC) No 767/2008, [Article 59 of the ETIAS proposal] and Articles 12 and 18 of the Regulation on SIS in the field of border checks, eu-LISA shall keep logs of all data processing operations within the ESP. Those logs shall include, in particular, the following:
 - (a) the Member State ~~authority~~ **or EU agency** and the ~~individual user of the ESP, including the ESP profile used as referred to in Article 8;~~
 - (b) the date and time of the query;
 - (c) the EU information systems and the Interpol databases queried;
 - (d) ~~the unique transaction identification number in accordance with national rules or when applicable, Regulation (EU) 45/2001, the identifying mark of the person who carried out the query.~~
- 1a. Each Member State shall keep logs of queries of the authority and the staff duly authorised to use the ESP including the transaction identification number referred to in point (d) of paragraph 1.*
2. The logs referred to in paragraphs 1 and 1a may be used only for data protection monitoring, including checking the admissibility of a query and the lawfulness of data processing, and for ensuring data security pursuant to Article 42. Those logs shall be **made available to the competent supervisory authority on request. They shall** protected by appropriate measures against unauthorised access **and modifications** and erased one year after their creation, unless they are required for monitoring procedures that have already begun **in which case they shall be erased once the monitoring procedures no longer require these logs.**

Article 11⁹

Fall-back procedures in case of technical impossibility to use the European search portal

1. Where it is technically impossible to use the ESP to query one or several EU information systems referred to in Article 9(1) or the CIR, because of a failure of the ESP, the users of the ESP shall be notified ***automatically*** by eu-LISA.
2. Where it is technically impossible to use the ESP to query one or several EU information systems referred to in Article 9(1) or the CIR, because of a failure of the national infrastructure in a Member State, that Member State's ~~competent authority~~ shall notify eu-LISA and the Commission.
3. In ***the cases referred to in paragraphs 1 or 2*** ~~both scenarios~~, and until the technical failure is addressed, the obligation referred to in Article 7(2) and (4) shall not apply and Member States may access the ***EU*** information systems referred to in Article 9(1) or the CIR ***with the support of a central EU backup solution capable of ensuring all functionalities of and similar performance as the ESP. The ESP and the backup ESP may operate simultaneously*** ~~directly using their respective national uniform interfaces or national communication infrastructures.~~
4. ***Where it is technically impossible to use the ESP to query one or several EU information systems referred to in Article 9(1) or the CIR, because of a failure of the infrastructure of a EU agency, that EU agency shall notify eu-LISA and the Commission.***

⁹ NL scrutiny reservation on the possibility to include a central fall-back mechanism for the ESP and the other interoperability components.

CHAPTER III

Shared Biometric Matching Service

Article 12

*Shared biometric matching service*¹⁰

1. A shared biometric matching service (shared BMS) storing biometric templates and enabling querying with biometric data across several EU information systems is established for the purposes of supporting the **Common Identity Repository (CIR)** and the multiple-identity detector (**MID**) and the objectives of the EES, the VIS, Eurodac, the SIS and [the ECRIS-TCN system].
2. The shared BMS shall be composed of:
 - (a) a central infrastructure, including a search engine and the storage of the data referred to in Article 13;
 - (b) a secure communication infrastructure between the shared BMS, Central-SIS and the CIR;
 - (c) a central EU backup solution that is capable of ensuring all functionalities of and with similar performance as the shared BMS in the event of failure of that system. The back up solution may operate simultaneously with the shared BMS.**
3. eu-LISA shall develop the shared BMS and ensure its technical management.

Article 13

Data stored in the shared biometric matching service

1. The shared BMS shall store the biometric templates that it shall obtain from the following biometric data:
 - (a) the data referred to in Article 16(1)(d) and Article 17(1)(b) and (c) **and Article 18(2)(a), (b) and (c) of** Regulation (EU) 2017/2226;
 - (b) the data referred to in Article 9(5) **and** (6) of Regulation (EC) No 767/2008;
 - (c) [the data referred to in Article 20(2)(w) and (x) of the Regulation on SIS in the field of border checks;
 - ~~(d) [the data referred to in Article 20(3)(w) and (x)(y) of the Regulation on SIS in the field of law enforcement];~~

¹⁰ NL scrutiny reservation on the possibility to include a central fall-back mechanism for the shared BMS and the other interoperability components.

~~(e) [the data referred to in Article 4(t) and (u) of the Regulation on SIS in the field of illegal return];~~

~~(f) [the data referred to in **Article 12(a) and (b)**, Article 12b (a) and (b), Article 13(2)(a) **and (b) and 14(2)(a) and (b)** of the Eurodac Regulation;]~~

~~(g) [the data referred to in Article 5(1)(b) and Article 5(2) of the ECRIS-TCN Regulation.]~~

2. **For each set of data referred to in paragraph 1**, the shared BMS shall include ~~in each biometric template~~ a reference to the *EU* information systems **and a reference to the actual record in the EU information systems** in which the corresponding biometric data are stored.

~~2a. **For each set of data referred to in paragraph 1, the shared BMS shall include a reference to the actual record in the EU information systems to which the data belongs.**~~

3.¹¹ Biometric templates ~~shall only~~ *may* be entered *only* in the shared BMS following an automated quality check of the biometric data added to one of the *EU* information systems performed by the shared BMS to ascertain the fulfilment of a minimum data quality standard¹².

4. The storage of the data referred to in paragraph 1 shall meet the quality standards referred to in Article 37(2) **and (4)**.

5. The Commission shall lay down the performance requirements and performance monitoring of the shared BMS, including the minimum requirements regarding the biometric performance of the shared BMS, in particular in terms of the required False Positive Identification Rate, False Negative Identification Rate and Failure To Enrol Rate, as well as the procedures and tools for notifying False Positive Identifications and False Negative verifications to eu-LISA in implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).

Article 14

Searching biometric data with the shared biometric matching service

In order to search the biometric data stored within the CIR and the SIS, the CIR and the SIS shall use the biometric templates stored in the shared BMS. Queries with biometric data shall take place in accordance with the purposes provided for in this Regulation and in ~~the EES~~ Regulation (*EU*) 2017/2226, the VIS Regulation (*EC*) No 767/2008, the Eurodac Regulation, the [SIS Regulations] and [the ECRIS-TCN Regulation].

¹¹ NL scrutiny reservation.

¹² *NB: this provision could be further clarified in a recital.*

Article 15
Data retention in the shared biometric matching service

The data referred to in Article 13(1) **and** (2) shall be stored in the shared BMS for as long as the corresponding biometric data ~~are~~ is stored in the CIR or the SIS **and shall be deleted in an automated manner.**

Article 16
Keeping of logs

1. Without prejudice to ~~[Article 46 of the EES Regulation]~~ (EU) 2017/2226, Article 34 of Regulation (EC) No 767/2008 and [Article 12 and 18 of the Regulation on SIS in the field of ~~law enforcement~~ **border checks**], eu-LISA shall keep logs of all data processing operations within the shared BMS. Those logs shall include, in particular, the following:
 - (a) the history related to the creation and storage of biometric templates;
 - (b) a reference to the EU information systems queried with the biometric templates stored in the shared BMS;
 - (c) the date and time of the query;
 - (d) the type of biometric data used to launch the query;
 - ~~(e) the length of the query;~~
 - (f) the results of the query and date and time of the result;
 - (g) ~~in accordance with national rules or, when applicable, Regulation (EU) 45/2001, the identifying mark of the person who carried out the query~~ **the Member State or EU agency searching biometric data.**
- 1a. Each Member State shall keep logs of queries of the authority and the staff duly authorised to use the shared BMS.**
2. The logs **referred to in paragraphs 1 and 1a** may be used only for data protection monitoring, including checking the admissibility of a query and the lawfulness of data processing, and for ensuring data security pursuant to Article 42. Those logs shall be ***made available to the competent supervisory authority on request. They shall*** protected by appropriate measures against unauthorised access ***and modifications*** and erased one year after their creation, unless they are required for monitoring procedures that have already begun, ***in which case they shall be erased once the monitoring procedures no longer require these logs.*** The logs referred to in paragraph 1(a) shall be erased once the data ~~is~~ erased.

CHAPTER IV

Common Identity Repository

Article 17

Common identity repository¹³

1. A common identity repository (CIR), creating an individual file for each person that is recorded in the EES, the VIS, [the ETIAS], Eurodac or [the ECRIS-TCN system] containing the data referred to in Article 18, is established for the purpose of facilitating and assisting the correct identification of persons registered in the EES, the VIS, [the ETIAS], the Eurodac and [the ECRIS-TCN system] **in accordance with Article 20**, of supporting the functioning of the multiple-identity detector **in accordance with Article 21** and of facilitating and streamlining access by ~~law enforcement~~ **designated** authorities **and Europol** to non-law enforcement **EU** information systems ~~at EU level~~, where necessary for the prevention, ~~investigation~~, detection **or investigation** ~~or prosecution~~ **of terrorist offences or other** of serious ~~crime~~ **criminal offences in accordance with Article 22**.
2. The CIR shall be composed of:
 - (a) a central infrastructure that shall replace the central systems of respectively the EES, the VIS, [the ETIAS], Eurodac and [the ECRIS-TCN system] to the extent that it shall store the data referred to in Article 18;
 - (b) a secure communication channel between the CIR, Member States and EU **agencies** ~~bodies~~ that are entitled to use the ~~European search portal (ESP)~~ **CIR** in accordance with Union law **and national law**;
 - (c) a secure communication infrastructure between the CIR and the EES, [the ETIAS], the VIS, Eurodac and [the ECRIS-TCN system] as well as with the central infrastructures of the ESP, the shared BMS and the ~~multiple identity detector~~ **MID**;
 - (d) a central EU backup solution that is capable of ensuring all functionalities of and with similar performance as the CIR in the event of failure of that system. The back up solution may operate simultaneously with the CIR.**
3. eu-LISA shall develop the CIR and ensure its technical management.
4. **eu-LISA, in cooperation with Member States, shall implement an interface control document (ICD) based on the UMF referred to in Article 38 for the CIR.**

¹³ NL scrutiny reservation on the possibility to include a central fall-back mechanism for the CIR and the other interoperability components.

Article 18
The common identity repository data

1. The CIR shall store the following data – logically separated – according to the **EU** information system from which the data was originated:
 - (a) the data referred to in ~~{Article 16(1)(a) to (d), and Article 17(1)(a) to (c)}~~ **and Article 18(1) and (2)** of the ~~EES~~ Regulation (**EU**) **2017/2226**;
 - (b) the data referred to in Article 9(4)(a) to (c), (5) and (6) of Regulation (EC) No 767/2008;
 - (c) [the data referred to in Article 15(2)(a) to (e) of the [ETIAS Regulation];]
 - ~~(d) —(not applicable)—~~
 - ~~(e) —(not applicable)—~~
2. For each set of data referred to in paragraph 1, the CIR shall include a reference to the **EU** information systems to which the data belongs.
- 2a. For each set of data referred to in paragraph 1, the CIR shall include a reference to the actual record in the EU information systems to which the data belongs.**¹⁴
3. The storage of the data referred to in paragraph 1 shall meet the quality standards referred to in Article 37(2).

Article 19
Adding, amending and deleting data in the common identity repository

1. Where data **are** ~~is~~-added, amended or deleted in the EES, the VIS and [the ETIAS], the data referred to in Article 18 stored in the individual file of the CIR shall be added, amended or deleted accordingly in an automated manner.
2. Where ~~the multiple identity detector creates~~ a white or red link **is created in the MID** in accordance with Articles 32 ~~and~~ **or** 33 between the data of two or more of the EU information systems constituting the CIR, instead of creating a new individual file, the CIR shall add the new data to the individual file of the linked data.

¹⁴ NL scrutiny reservation.

Article 20

Access to the common identity repository for identification

1. Where a ~~Member State~~ police authority has been so empowered by national legislative measures as referred to in paragraph 2, it may, solely for the purpose of identifying a person, query the CIR with the biometric data of that person taken during an identity check.
 - 1a. ***Where a police authority has been so empowered by national legislative measures as referred to in paragraph 2a, it may, for the purpose of identifying unknown persons who are not able to identify themselves or unidentified human remains, in the event of a natural disaster or an accident, query the CIR with the biometric data of those persons.***
 - 1b. Where the query indicates that data on that person is stored in the CIR, the ~~Member States~~ ***police*** authority shall have access to consult the data referred to in Article 18(1).

Where the biometric data of the person cannot be used or where the query with that data fails, the query shall be carried out with identity data of the person in combination with travel document data, or with the identity data provided by that person.
2. Member States wishing to avail themselves of the possibility provided for in ***paragraph 1*** ~~this Article~~ shall adopt national legislative measures. Such legislative measures shall specify the precise purposes of identity checks within the purposes referred to in Article 2(1)(b) and (c). They shall designate the police authorities competent and lay down the procedures, conditions and criteria of such checks.
 - 2a. ***Member States wishing to avail themselves of the possibility provided for in paragraph 1a shall adopt national legislative measures laying down the procedures, conditions and criteria.***

Article 21

Access to the common identity repository for the detection of multiple identities¹⁵

1. Where a query of the CIR results in a yellow link in accordance with Article 28(4), the authority responsible for the verification of different identities determined in accordance with Article 29 shall have access, solely for the purpose of that verification, to the ~~identity~~ data ***referred to in Article 18(1) and (2)*** stored in the CIR belonging to the various EU information systems connected to a yellow link.
2. Where a query of the CIR results in a red link in accordance with Article 32, the authorities referred to in Article 26(2) shall have access, solely for the purposes of fighting identity fraud, to the ~~identity~~ data ***referred to in Article 18(1) and (2)*** stored in the CIR belonging to the various EU information systems connected to a red link.

¹⁵ NL scrutiny reservation.

Querying the common identity repository for ~~law enforcement~~ purposes of preventing, detecting and investigating terrorist offences or other serious criminal offences

1. For the purposes of preventing, detecting and investigating terrorist offences or other serious criminal offences in a specific case and in order to obtain information on whether data on a specific person is present in the EES, the VIS and [the ETIAS] ~~or~~ the Member State designated authorities and Europol may consult the CIR.
2. ~~Member State~~ Designated authorities and Europol shall not be entitled to consult data belonging to [the ECRIS-TCN] when consulting the CIR for the purposes listed in paragraph 1.
3. Where, in reply to a query the CIR indicates data on that person is present in the EES, the VIS and [the ETIAS] the CIR shall provide to ~~Member States~~ designated authorities and Europol a reply in the form of a reference indicating which of the **EU** information systems contains matching data referred to in Article 18(2). The CIR shall reply in such a way that the security of the data is not compromised. ***The reply indicating that data on that person is present in any of those systems may be used only for the purpose of submitting an access request subject to the conditions and procedures laid down in the respective legislative instruments governing such access.***¹⁶
4. Full access to the data contained in the EU information systems for the purposes of preventing, detecting and investigating terrorist offences or other serious criminal offences remains subject to the conditions and procedures laid down in the respective legislative instruments governing such access.

¹⁶ The Presidency proposes adding the following **recital**:
“The reply will not be interpreted and used as a ground or reason to draw conclusions on or undertake measures towards a third country national, but may be used only for the purpose of submitting an access request to the underlying EU information systems, subject to the conditions and procedures laid down in the respective legislative instruments governing such access. Any such act will be subject to measures set out in Chapter VII and measures in Regulation 2016/679, Directive 2016/680 or Regulation 45/2001.”

Article 23
Data retention in the common identity repository

1. **Without prejudice to paragraph 3**, ~~the~~ data referred to in Article 18(1), ~~and (2) and (2a)~~ shall be deleted from the CIR **in an automated manner** in accordance with the data retention provisions of ~~the EES Regulation (EU) 2017/2226~~, ~~the VIS Regulation (EC) No 767/2008~~ and [the ETIAS Regulation] respectively.
2. The individual file shall be stored in the CIR for as long as the corresponding data **are** ~~is~~ stored in at least one of the **EU** information systems whose data **are** ~~is~~ contained in the CIR. The creation of a link shall not affect the retention period of each item of the linked data.
3. **Where a red link is stored in the MID in accordance with Article 32, the linked data referred to in Article 18(1), (2) and (2a) shall be stored in the CIR for as long as the corresponding data are stored in at least one of the EU information systems from which the linked data originates.**

Article 24
Keeping of logs

1. Without prejudice to ~~{Article 46 of the EES Regulation (EU) 2017/2226, Article 34 of Regulation (EC) No 767/2008 and [Article 59 of the ETIAS proposal]}~~, eu-LISA shall keep logs of all data processing operations within the CIR in accordance with paragraphs 2, 3 and 4.
2. Concerning any access to the CIR pursuant to Article 20, eu-LISA shall keep logs of all data processing operations within the CIR. Those logs shall include, in particular, the following:
 - (a) the purpose of access of the user querying via the CIR;
 - (b) the date and time of the query;
 - (c) the type of data used to launch the query;
 - (d) the results of the query;
 - (e) ~~in accordance with national rules or with Regulation (EU) 2016/794 or, when applicable, Regulation (EU) 45/2001, the identifying mark of the person who carried out the query~~ **the Member State or EU agency querying the CIR.**

3. Concerning any access to the CIR pursuant to Article 21, eu-LISA shall keep logs of all data processing operations within the CIR. Those logs shall include, in particular, the following:
- (a) the purpose of access of the user querying via the CIR;
 - (b) the date and time of the query;
 - (c) where ~~relevant~~ ***a link is created***, the data used to launch the query;
 - (d) where ~~relevant~~ ***a link is created***, the results of the query;
 - (e) ~~in accordance with national rules or with Regulation (EU) 2016/794 or, when applicable, Regulation (EU) 45/2001, the identifying mark of the person who carried out the query~~ ***the Member State or EU agency querying the CIR.***
4. Concerning any access to the CIR pursuant to Article 22, eu-LISA shall keep logs of all data processing operations within the CIR. Those logs shall include, in particular, the following:
- (a) the national file reference;
 - (b) the date and time of the query;
 - (c) the type of data used to launch the query;
 - (d) the results of the query;
 - (e) the ~~name of the authority~~ ***Member State or EU agency querying*** consulting the CIR;
 - (f) in accordance with national rules or with Regulation (EU) 2016/794 or, when applicable, ~~Regulation (EU) 45/2001~~ [***Regulation XX/2018 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC***], the ~~identifying mark~~ ***unique user identity*** of the official who carried out the query and of the official who ordered the query.

The logs of such access shall be regularly verified by the competent supervisory authority ~~established in accordance with Article 51 of Regulation (EU) 2016/679, or~~ in accordance with Article 41 of Directive 2016/680 ***or by the European Data Protection Supervisor in accordance with Article 43 of Regulation (EU) 2016/794***, at intervals not exceeding ~~six months~~ ***one year***, to verify whether the procedures and conditions set out in Article 22(1) to (3) are fulfilled.

5. Each Member State shall keep logs of queries of ***the authority and*** the staff duly authorised to use the CIR pursuant to Articles 20, 21 and 22.
- 5a. ***Europol shall keep logs of queries of the staff duly authorised to use the CIR pursuant to Article 22.***
6. The logs referred to in paragraphs 1, 5 and 5a may be used only for data protection monitoring, including checking the admissibility of a request and the lawfulness of data processing, and for ensuring data security pursuant to Article 42. They shall be protected by appropriate measures against unauthorised access ***and modifications*** and erased one year after their creation, unless they are required for monitoring procedures that have already begun ***in which case they shall be erased once the monitoring procedures no longer require these logs.***
7. eu-LISA shall keep the logs related to the history of the data stored in individual file, for purposes defined in paragraph 6. ***eu-LISA shall erase*** the logs related to the history of the data stored ~~shall be erased~~ once the data ***are*** ~~is~~ erased.

CHAPTER V

Multiple-identity Detector

Article 25 *Multiple-identity detector*

1. A multiple-identity detector (MID) creating and storing links between data in the EU information systems included in the common identity repository (CIR) and the SIS and as a consequence detecting multiple identities, with the dual purpose of facilitating identity checks and combating identity fraud, is established for the purpose of supporting the functioning of the CIR and the objectives of the EES, the VIS, the ETIAS], Eurodac, the SIS and [the ECRIS-TCN system].
2. The MID shall be composed of:
 - (a) a central infrastructure, storing links and references to EU information systems;
 - (b) a secure communication infrastructure to connect the MID with the SIS and the central infrastructures of the European search portal and the CIR;
 - (c) a central EU backup solution that is capable of ensuring all functionalities of and with similar performance as the MID in the event of failure of that system. The back up solution may operate simultaneously with the MID.**
3. eu-LISA shall develop the MID and ensure its technical management.

Article 26 *Access to the multiple-identity detector*

1. For the purposes of the manual identity verification referred to in Article 29, access to the data referred to in Article 34 stored in the MID shall be granted to:
 - (a) ~~border~~ **competent authorities referred to in Article 9(2) of Regulation (EU) 2017/2226** when creating or updating an individual file **in EES in accordance with as provided for in** Article 14 of ~~that the~~ ~~[EES Regulation]~~;
 - (b) competent authorities referred to in Article 6(1) ~~and (2)~~ of Regulation 767/2008 when creating or updating an application file in the VIS in accordance with ~~Article 8 of~~ ~~that~~ Regulation ~~(EC) No 767/2008~~;
 - (c) [the ETIAS Central Unit and the ETIAS National Units when carrying out the assessment referred to in Articles 20 and 22 of the ETIAS Regulation;]
 - ~~(d) (not applicable);~~
 - (e) the SIRENE Bureau~~x~~ of the Member State creating **or updating** a [SIS alert in accordance with the Regulation on SIS in the field of border checks];
 - ~~(f) (not applicable).~~

2. Member State authorities and EU *agencies* ~~bodies~~ having access to at least one EU information system included in the ~~common identity repository~~ *CIR* or to the SIS shall have access to the data referred to in Article 34(a) and (b) regarding any red links as referred to in Article 32.

Article 27
Multiple-identity detection

1. A multiple-identity detection in the ~~common identity repository~~ *CIR* and the SIS shall be launched where:
- (a) an individual file is created or updated in {the EES in accordance with ~~Article 14 of the EES Regulation (EU) 2017/2226~~};
 - (b) an application file is created or updated in the VIS in accordance with ~~Article 8 of Regulation (EC) No 767/2008~~;
 - (c) [an application file is created or updated in the ETIAS in accordance with ~~Article 17 of the ETIAS Regulation~~];
 - ~~(d) — (not applicable);~~
 - (e) [an alert on a person is created or updated in the SIS in accordance with Chapter V of the Regulation on SIS in the field of border checks];
 - ~~(f) — (not applicable).~~
2. Where the data contained within an EU information system as referred to in paragraph 1 contains biometric data, the common identity repository (CIR) and the Central-SIS shall use the shared biometric matching service (shared BMS) in order to perform the multiple-identity detection. The shared BMS shall compare the biometric templates obtained from any new biometric data to the biometric templates already contained in the shared BMS in order to verify whether or not data belonging to the same person ~~third-country national~~ is already stored in the CIR or in the Central SIS.

3. In addition to the process referred to in paragraph 2, the CIR and the Central-SIS shall use the European search portal to search the data stored in ~~the CIR and~~ the Central-SIS **and the CIR respectively** using the following data:
- (a) surname (family name); first name(s) (given name(s)); date of birth, sex and nationality(ies) as referred to in Article 16(1)(a) of ~~the [EES Regulation (EU) 2017/2226];~~
 - (b) surname (family name); first name(s) (given name(s)); date of birth, sex and nationality(ies) as referred to in Article 9(4)(a) of Regulation (EC) No 767/2008;
 - (c) [surname (family name); first name(s) (given name(s)); surname at birth; date of birth, place of birth, sex and nationality(ies) as referred to in Article 15(2) of the ETIAS Regulation;]
 - ~~(d) (not applicable);~~
 - (e) [surname(s); forename(s); name(s) at birth, previously used names and aliases; date of birth, place of birth, nationality(ies) and **gender** ~~sex~~ as referred to in Article 20(2) of the Regulation on SIS in the field of border checks;]
 - ~~(f) (not applicable);~~
 - ~~(g) (not applicable);~~
 - ~~(h) (not applicable).~~
4. The multiple-identity detection ~~may shall only~~ be launched **only** in order to compare data available in one EU information system with data available in other EU information systems.

Article 28

Results of the multiple-identity detection

1. Where the queries referred to in Article 27(2) and (3) do not report any hit¹⁷, the procedures referred to in Article 27(1) shall continue in accordance with the respective Regulations governing them.
2. Where the query laid down in Article 27(2) and (3) reports one or several hit(s), the common identity repository and, where relevant, the SIS shall create a link between the data used to launch the query and the data triggering the hit.

Where several hits are reported, a link shall be created between all data triggering the hit. Where data was already linked, the existing link shall be extended to the data used to launch the query.

¹⁷ NB: The use of "hit" and "match" in this and subsequent Articles is to be aligned with the definition of these terms in Article 4.

3. Where the query referred to in Article 27(2) or (3) reports one or several hit(s) and the identity data of the linked files is identical or similar, a white link shall be created in accordance with Article 33.
4. Where the query referred to in Article 27(2) or (3) reports one or several hit(s) and the identity data of the linked files cannot be considered as similar, a yellow link shall be created in accordance with Article 30 and the procedure referred to in Article 29 shall apply.
5. The Commission shall lay down the procedures to determine the cases where identity data can be considered as identical or similar in implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).
- 5a. ***The Commission shall lay down the procedures to determine the cases where biometric data can be considered as the same in implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).***
6. The links shall be stored in the identity confirmation file referred to in Article 34.
7. The Commission shall lay down the technical rules for ~~linking data~~ ***creating links between data*** from different ***EU*** information systems by implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).

Article 29

Authorities responsible and manual verification of different identities

1. Without prejudice to paragraph 2, the authority responsible for verification of different identities shall be:
 - (a) the ~~border~~ ***competent authority referred to in Article 9(2) of Regulation (EU) 2017/2226*** for hits that occurred when creating or updating an individual ***file*** in ~~the~~ EES in accordance with Article 14 of ~~that the EES Regulation~~;
 - (b) the competent authorities referred to in Article 6(1) ~~and (2)~~ of Regulation 767/2008 for hits that occurred when creating or updating an application file in the VIS in accordance with Article 8 of Regulation (EC) No 767/2008;
 - (c) [the ETIAS Central Unit and the ETIAS National Units for hits that occurred in accordance with Articles 18, 20 and 22 of the ETIAS Regulation;]
 - ~~(d) (not applicable);~~

(e) the SIRENE Bureau~~x~~ of the Member State for hits that occurred when creating **or updating** a SIS alert in accordance with the [Regulations on SIS in the field of border checks];

~~(f) (not applicable).~~

The multiple-identity detector shall indicate the authority responsible for the verification of different identities in the identity ~~verification~~ **confirmation** file.

2. The authority responsible for the verification of different identities in the identity confirmation file shall be the SIRENE Bureau of the Member State that created the alert where a link is created to data contained:

(a) in an alert in respect of persons wanted for arrest or for surrender or extradition purposes as referred to in Article 26 of [the Regulation on SIS in the field of law enforcement];

(b) in an alert on missing or vulnerable persons as referred to in Article 32 of [the Regulation on SIS in the field of law enforcement];

(c) in an alert on persons sought to assist with a judicial procedure as referred to in Article 34 of [the Regulation on SIS in the field of law enforcement];

(d) [in an alert on return in accordance with the Regulation on SIS in the field of illegal return];

(e) in an alert on persons for discreet checks, inquiry checks or specific checks as referred to in Article 36 of [the Regulation on SIS in the field of law enforcement].

~~(f) in an alert on unknown wanted persons for identification according to national law and search with biometric data as referred to in Article 40 of [the Regulation on SIS in the field of law enforcement].~~

3. Without prejudice to paragraph 4, the authority responsible for verification of different identities shall have access to the related data contained in the relevant identity confirmation file and to the identity data linked in the common identity repository and, where relevant, in the SIS, and shall assess the different identities. ~~and~~ **It** shall update the link in accordance with Articles 31, 32 and 33 and add it to the identity confirmation file without delay.

4. Where the authority responsible for the verification of different identities in the identity confirmation file is the border authority creating or updating an individual file in the EES in accordance with Article 14 of the EES Regulation (EU) 2017/2226, and where a yellow link is **created** ~~obtained~~, the border authority shall carry out additional verifications ~~as part of a second line check. During this second line check,~~ **The That** border authority**ies** shall have access to the related data contained in the relevant identity confirmation file and shall assess the different identities and shall update the link in accordance with Articles 31 to 33 and add it to the identity confirmation file without delay.

5. Where more than one link is ~~created~~ obtained, the authority responsible for the verification of different identities shall assess each link separately.
6. Where data reporting a hit was already linked, the authority responsible for the verification of different identities shall take into account the existing links when assessing the creation of new links.

Article 30
Yellow link

1. A link between data from two or more EU information systems shall be classified as yellow in any of the following cases:
 - (a) the linked data shares the same biometric but different identity data and no manual verification of different identity has taken place;
 - (b) the linked data has ~~different~~ some differences in the identity data, and no manual verification of different identity has taken place and at least one of the EU information systems does not have biometric data on the person;
 - (c) the linked data has same or similar identity data but different travel document data, no manual verification of different identity has taken place and at least one of the EU information systems does not have biometric data on the person;
 - (d) the linked data has same identity data, the same travel document data, but different biometric data and no manual verification of different identity has taken place.
2. Where a link is classified as yellow in accordance with paragraph 1, the procedure laid down in Article 29 applies.

Article 31
Green link

1. A link between data from two or more EU information systems shall be classified as green where the linked data do not share the same biometric but have similar identity data and the authority responsible for the verification of different identities concluded it refers to two different persons.
2. Where the common identity repository (CIR) or the SIS are queried and where a green link exists between two or more of the EU information systems constituting the CIR or with the SIS, the multiple-identity detector shall indicate that the identity data of the linked data does not correspond to the same person. ~~The queried information system shall reply indicating only the data of the person whose data was used for the query, without triggering a hit against the data that is subject to the green link.~~

Article 32

Red link

1. A link between data from two or more EU information systems shall be classified as red in any of the following cases:
 - (a) the linked data shares the same biometric but different identity data and the authority responsible for the verification of different identities concluded it refers ~~unlawfully~~ to the same person ***in an unjustified manner***;
 - ~~(b) the linked data has similar identity data and the authority responsible for the verification of different identities concluded it refers to the same person;~~
 - (c) the linked data has different identity data, at least one of the EU information systems does not have biometric data on the person and the authority responsible for the verification of different identities concluded it refers to the same person in an unjustified manner;***
 - (d) the linked data has same or similar identity data, the same travel document data, but different biometric data and the authority responsible for the verification of different identities concluded it refers to different persons in an unjustified manner.***
2. Where the CIR or the SIS are queried and where a red link exists between two or more of the EU information systems constituting the CIR or with the SIS, the multiple-identity detector shall reply indicating the data referred to in Article 34. Follow-up to a red link shall take place in accordance with Union and national law.
3. Where a red link is created between data from the EES, the VIS, [the ETIAS], Eurodac or [the ECRIS-TCN System], the individual file stored in the CIR shall be updated in accordance with Article 19~~(4)~~ (2).
4. ***Where a red link is created following a manual verification of multiple identities between data from the EES, the VIS, the ETIAS or the Eurodac,*** ~~Without prejudice to the provisions related to the handling of alerts in the SIS referred to in the [Regulations on SIS in the field of border checks, on SIS in the field of law enforcement and on SIS in the field of illegal return], and without prejudice to limitations necessary to protect security and public order, prevent crime and guarantee that any national investigation will not be jeopardised, where a red link is created,~~ the authority responsible for verification of different identities shall inform the person of the presence of multiple unlawful identities.

The information shall be given by means of a standard form by the authority responsible for verification of different identities. The Commission shall determine the content of that form and the modalities for the information by implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).¹⁸

¹⁸ *NB: if accepted, this wording shall be included in Article 33(4) as well.*

~~5. Where a red link is created, the authority responsible for verification of different identities shall provide a reference to the authorities responsible for the data linked.~~

6. *If a Member State authority has evidence to suggest that a red link recorded in the MID is factually inacurate or not up-to-date or that data were processed in the MID, the CIR or the SIS in breach of this Regulation, it shall check the relevant data stored in the CIR and SIS and shall, if necessary, rectify or erase the link from the MID without delay. That Member State authority shall inform the Member State responsible for the manual verification without delay.*

Article 33
White link

1. A link between data from two or more EU information systems shall be classified as white in any of the following cases:

- (a) the linked data shares the same biometric and the same or similar identity data;
- (b) the linked data shares the same or similar identity data, ~~and~~ ***the same travel document data, and*** at least one of the EU information systems does not have biometric data on the person;

(ba) the linked data shares the same or similar identity data and at least one of the EU information systems does not have biometric data on the person and the authority responsible for the verification of different identities concluded it refers to the same person legally having different identity data;

- (c) the linked data shares the same biometric but different identity data and the authority responsible for the verification of different identities concluded it refers to the same person legally having different identity data.

2. Where the CIR or the SIS are queried and where a white link exists between ~~one~~ ***two*** or more of the EU information systems constituting the CIR or with the SIS, the ~~multiple-identity detector~~ ***MID*** shall indicate that the identity data of the linked data correspond to the same person. The queried EU information systems shall reply indicating, where relevant, all the linked data on the person, hence triggering a hit¹⁹ against the data that is subject to the white link, if the authority launching the query has access to the linked data under Union or national law.

3. Where a white link is created between data from the EES, the VIS, [the ETIAS], Eurodac or [the ECRIS-TCN system], the individual file stored in the CIR shall be updated in accordance with Article 19~~(1)~~(2).

¹⁹ *The use of the term "hit(s)" here and elsewhere in the text is to be aligned with the corresponding definition in Article 4.*

4. ~~Without prejudice to the provisions related to the handling of alerts in the SIS referred to in the [Regulations on SIS in the field of border checks, on SIS in the field of law enforcement and on SIS in the field of illegal return],~~ ~~w~~Where a white link is created following a manual verification of multiple identities ***between data from the EES, the VIS, the ETIAS or Eurodac***, the authority responsible for ~~the~~ verification of different identities shall inform the person of the presence of discrepancies between his or her personal data between systems and shall provide a reference to the authorities responsible for the data linked. ***The information shall be given by means of a standard form by the authority responsible for verification of different identities. The Commission shall determine the content of that form and the modalities for the information by implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).***
5. ***If a Member State authority has evidence to suggest that a white link recorded in the MID is factually incorrect or that data were processed in the MID, the CIR or the SIS in breach of this Regulation, it shall check the relevant data stored in the CIR and SIS and shall, if necessary, rectify the link in the MID without delay. That Member State authority shall inform the Member State responsible for the manual verification without delay.***²⁰

Article 34
Identity confirmation file

The identity confirmation file shall contain the following data:

- (a) ~~the links, including their description in form of colours,~~ as referred to in Articles 30 to 33;
- (b) a reference to the EU information systems whose data ~~are~~ is-linked;
- (c) a single identification number allowing to retrieve the data from the EU information systems of corresponding linked files ***in accordance with respective access rights under Union and national law***;
- (d) ~~where relevant,~~ the authority responsible for the verification of different identities;
- (e) date of creation or update of the link.**

²⁰ The Presidency proposes that the following recital be added to explain this provision:
"Access to the MID by Member State authorities and EU agencies is not foreseen where a white link exists between data from two or more EU information systems. However, this will not affect the users' access rights. Where it becomes evident when accessing data from two or more EU information systems that a white link was wrongly created, that Member State authority or EU agency should be able to correct the situation and replace the link."

Article 35

Data retention in the multiple-identity detector

1. The identity confirmation files and ~~its~~ **their** data, including the links, shall be stored in the ~~multiple-identity detector (MID)~~ only for as long as the linked data **are** ~~is~~-stored in two or more EU information systems.
2. **Where a red link is created between data in the CIR, the identity confirmation files and their data, including the red link, shall be stored in the MID only for as long as the corresponding data are stored in at least one of the EU information systems from which the linked data originates.**
3. **Where a red link is created between data in the CIR and the SIS, the identity confirmation files and their data, including the red link, shall be stored in the MID only for as long as the corresponding data are stored in the SIS.**

Article 36

Keeping of logs

1. eu-LISA shall keep logs of all data processing operations within the MID. Those logs shall include, in particular, the following:
 - (a) the purpose of access of the user and his or her access rights;
 - (b) the date and time of the query;
 - (c) the type of data used to launch the query or queries;
 - (d) the reference to the data linked;
 - (e) the history of the identity confirmation file;
 - (f) ~~the identifying mark of the person who carried out the query~~ **Member State or EU agency querying the MID.**
2. Each Member State shall keep logs of the **authority and the** staff duly authorised to use the MID.
3. The logs **referred to in paragraphs 1 and 2** may be used only for data protection monitoring, including checking the admissibility of a request and the lawfulness of data processing, and for ensuring data security pursuant to Article 42. Those logs shall be ***made available to the competent supervisory authority on request. They shall*** be protected by appropriate measures against unauthorised access ***and modification.*** ~~and~~ ***They shall be erased in an automated manner*** one year after their creation, unless they are required for monitoring procedures that have already begun ***in which case they shall be erased once the monitoring procedures no longer require those logs.*** The logs related to the history of the identity confirmation file shall be erased once the data in the identity confirmation file is erased.

CHAPTER VI

Measures supporting interoperability

Article 37
Data quality

1. ***Without prejudice to Member States' responsibilities with regard to the quality of data entered into the systems***, eu-LISA shall establish automated data quality control mechanisms and procedures on the data stored in the EES, ***the VIS***, the [ETIAS], ~~the VIS~~, the SIS, the shared biometric matching service (shared BMS), ***and*** the common identity repository (CIR) ~~and the multiple identity detector (MID)~~.
2. eu-LISA shall ~~establish~~ ***implement mechanisms for evaluating the accuracy of the shared BMS***, common data quality indicators and the minimum quality standards to store data in the EES, ***the VIS***, the [ETIAS], ~~the VIS~~, the SIS, the shared BMS, ***and*** the CIR ~~and the MID~~.
3. eu-LISA shall provide regular reports on the automated data quality control mechanisms and procedures, and the common data quality indicators to the Member States. eu-LISA shall also provide a regular report to the Commission covering the issues encountered and the Member States concerned.
4. The details of the automated data quality control mechanisms and procedures and the common data quality indicators and the minimum quality standards to store data in the EES, ***the VIS***, the [ETIAS], ~~the VIS~~, the SIS, the shared BMS, ***and*** the CIR ~~and the MID~~, in particular regarding biometric data, shall be laid down in implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).²¹
5. One year after the establishment of the automated data quality control mechanisms and procedures, ~~and~~ common data quality indicators ***and the minimum quality standards*** and every year thereafter, the Commission shall evaluate Member State implementation of data quality and shall make any necessary recommendations. The Member States shall provide the Commission with an action plan to remedy any deficiencies identified in the evaluation report and shall ***regularly*** report on any progress against this action plan until it is fully implemented.

The Commission shall transmit the evaluation report to the European Parliament, to the Council, to the European Data Protection Supervisor and to the European Union Agency for Fundamental Rights established by Council Regulation (EC) No 168/2007.²²

²¹ It is proposed that the standard recital on the consultation of experts be included.

²² Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

Article 38
Universal Message Format

1. The Universal Message Format (UMF) standard is hereby established²³. The UMF defines standards for certain content elements of cross-border information exchange between information systems, authorities and/or organisations in the field of Justice and Home ~~A~~affairs.
2. The UMF standard shall be used in the development of the EES, the [ETIAS], ~~the~~ European search portal, the CIR, the MID and, if appropriate, in the development by eu-LISA or any other EU *agency* ~~body~~ of new information exchange models and information systems in the area of Justice and Home Affairs.
3. The implementation of the UMF standard may be considered in the VIS, the SIS and in any existing or new cross-border information exchange models and information systems in the area of Justice and Home Affairs, developed by Member States ~~or associated countries~~.
4. The Commission shall adopt an implementing act to lay down and develop the UMF standard referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).

²³ A recital could be included as follows: “***UMF is not meant as a mandatory, sole or preferred standard for the field of Justice and Home Affairs and the diverse solutions deployed by the European Commission, the EU agencies and Member States.***”

Article 39
Central repository for reporting and statistics

1. A central repository for reporting and statistics (CRRS) is established for the purposes of supporting the objectives of the EES, the VIS, [the ETIAS] and the SIS and to generate, ***in accordance with the respective legal instruments***, cross-system statistical data and analytical reporting for policy, operational and data quality purposes.
2. eu-LISA shall establish, implement and host the CRRS in its technical sites containing the data referred to in [Article 63 of the EES Regulation], Article 17 of Regulation (EC) No 767/2008, [Article 73 of the ETIAS Regulation] and [Article 54 of the Regulation on SIS in the field of border checks], logically separated. The data contained in the CRRS shall not enable the identification of individuals. Access to the ~~repository~~ ***CRRS*** shall be granted by means of secured access ~~through the Trans-European Services for Telematics between Administrations (TESTA) network service~~ with control of access and specific user profiles, solely for the purpose of reporting and statistics, to the authorities referred to in [Article 63 of the EES Regulation], Article 17 of Regulation (EC) No 767/2008, [Article 73 of the ETIAS Regulation] and [Article 54 of the Regulation on SIS in the field of border checks].
3. eu-LISA shall render the data anonymous and shall record such anonymous data in the CRRS. The process for rendering the data anonymous shall be automated.
4. The CRRS shall be composed of:
 - (-a) ***the tools necessary for anonymising data;***
 - (a) a central infrastructure, consisting of a data repository ~~enabling the rendering~~ of anonymous data;
 - (b) a secure communication infrastructure to connect the CRRS to the EES, ***the VIS***, [the ETIAS], ~~the VIS~~ and the SIS, as well as the central infrastructures of the shared BMS, the CIR and the MID.
5. The Commission shall lay down detailed rules on the operation of the CRRS, including specific safeguards for processing of personal data referred to under paragraphs 2 and 3 and security rules applicable to the repository by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).

CHAPTER VII

Data protection

Article 40 Data controller

1. In relation to the processing of data in the shared biometric matching service (shared BMS), the Member State authorities that are controllers for the ~~VIS~~, EES, **the VIS** and SIS respectively, shall ~~also be considered as~~ controllers in accordance with Article 4(7) of Regulation (EU) No 2016/679 **and Article 3(8) of Directive (EU) No 2016/680** in relation to the biometric templates obtained from the data referred to in Article 13 that they enter into respective systems and shall have responsibility for the processing of the biometric templates in the shared BMS.
2. In relation to the processing of data in the common identity repository (CIR), the Member State authorities that are controllers for the ~~VIS~~, EES, **the VIS** and [ETIAS], respectively, shall ~~also be considered as~~ controllers in accordance with Article 4(7) of Regulation (EU) 2016/679 in relation to data referred to in Article 18 that they enter into respective systems and shall have responsibility for the processing of that personal data in the CIR.
3. In relation to the processing of data in the multiple-identity detector (**MID**):
 - (a) the European Border and Coast Guard Agency shall be ~~considered~~ a data controller in accordance with Article 2(~~b~~)(**d**) of Regulation No 45/2001 [**or Article 3(2)(b) of Regulation XX/2018 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC**] in relation to **the** processing of personal data by the ETIAS Central Unit;
 - (b) the Member State authorities adding or modifying the data in the identity confirmation file ~~are also to be considered as~~ **shall be** controllers in accordance with Article 4(7) of Regulation (EU) No 2016/679 **and Article 3(8) of Directive (EU) No 2016/680** and shall have responsibility for the processing of the personal data in the ~~multiple-identity detector~~ **MID**;

Article 41
Data processor

In relation to the processing of personal data in *the shared BMS*, the CIR *and the MID*, eu-LISA ~~shall is to be considered~~ the data processor in accordance with Article 2(e) of Regulation (EC) No 45/2001 *[or Article 3(1)(a) of Regulation XX/2018 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC]*.

Article 42
Security of processing

1. ~~Both~~ eu-LISA, *[the ETIAS Central Unit]*, *Europol* and the Member State authorities shall ensure the security of the processing of personal data that takes place pursuant to the application of this Regulation. eu-LISA, *[the ETIAS Central Unit]*, *Europol* and the Member State authorities shall cooperate on security-related tasks.
2. Without prejudice to Article 22 of Regulation (EC) No 45/2001 *[or Article 33 of Regulation XX/2018 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC]*, eu-LISA shall take the necessary measures to ensure the security of the interoperability components and their related communication infrastructure.
3. In particular, eu-LISA shall adopt the necessary security measures, including a security plan, a business continuity plan and a disaster recovery plan, in order to:
 - (a) ~~physically~~ protect data, including by making contingency plans for the protection of critical infrastructure;
 - (b) prevent the unauthorised reading, copying, modification or removal of data media;
 - (c) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of recorded personal data;
 - (d) prevent the unauthorised processing of data and any unauthorised copying, modification or deletion of data;

- (e) ensure that persons authorised to access the interoperability components have access only to the data covered by their access authorisation, by means of individual user identities and confidential access modes only;
 - (f) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment;
 - (g) ensure that it is possible to verify and establish what data has been processed in the interoperability components, when, by whom and for what purpose;
 - (h) prevent the unauthorised reading, copying, modification or deletion of personal data during the transmission of personal data to or from the interoperability components or during the transport of data media, in particular by means of appropriate encryption techniques;
 - (i) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring to ensure compliance with this Regulation.
4. Member States, *[the ETIAS Central Unit] and Europol* shall take measures equivalent to those referred to in paragraph 3 as regards security in respect of the processing of personal data by the authorities having a right to access any of the interoperability components.

Article 43
Confidentiality of SIS data

1. Each Member State shall apply its rules of professional secrecy or other equivalent duties of confidentiality to all persons and bodies required to work with SIS data accessed through any of the interoperability components in accordance with its national law. That obligation shall also apply after those persons leave office or employment or after the termination of the activities of those bodies.
2. Without prejudice to Article 17 of the Staff Regulations of officials and the Conditions of Employment of other servants of the European Union, eu-LISA shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality of comparable standards to those laid down in paragraph 1 to all its staff required to work with SIS data. This obligation shall also apply after those persons leave office or employment or after the termination of their activities.

Article 44
Security incidents

1. Any event that has or may have an impact on the security of the interoperability components and may cause damage to or loss of data stored in them shall be considered to be a security incident, in particular where unauthorised access to data may have occurred or where the availability, integrity and confidentiality of data has or may have been compromised.
2. Security incidents shall be managed so as to ensure a quick, effective and proper response.
3. Without prejudice to the notification and communication of a personal data breach pursuant to Article 33 of Regulation (EU) 2016/679, Article 30 of Directive (EU) 2016/680, or both, Member States shall notify the Commission, eu-LISA and the European Data Protection Supervisor of *any* security incidents.

Without prejudice to Article 35 of Regulation (EC) 45/2001 [or Article 37 of Regulation XX/2018 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC] and Article 34 of Regulation (EU) 2016/794, [the ETIAS Central Unit] and Europol shall notify the Commission, eu-LISA and the European Data Protection Supervisor of any security incident.

In the event of a security incident in relation to the central infrastructure of the interoperability components, eu-LISA shall notify the Commission and the European Data Protection Supervisor.

4. Information regarding a security incident that has or may have an impact on the operation of the interoperability components or on the availability, integrity and confidentiality of the data shall be provided to the Member States, ***[the ETIAS Central Unit] and Europol*** and reported in compliance with the incident management plan ~~to be~~ provided by eu-LISA.
5. The Member States concerned, ***[the ETIAS Central Unit], Europol*** and eu-LISA shall cooperate in the event of a security incident. The Commission shall lay down the specification of this cooperation procedure by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).

Article 45
Self-monitoring

Member States and the relevant EU ~~agencies~~ ~~bodies~~ shall ensure that each authority entitled to access the interoperability components takes the measures necessary to monitor its compliance with this Regulation and cooperates, where necessary, with the supervisory authority.

The data controllers as referred to in Article 40 shall take the necessary measures to monitor the compliance of the data processing pursuant to this Regulation, including frequent verification of logs, and cooperate, where necessary, with the supervisory authorities referred to in Articles 49 and *with the European Data Protection Supervisor as referred to in Article 50.*

Article 46
Right of information

1. Without prejudice to the right of information referred to in Articles 11 and 12 of Regulation (EC) 45/2001 [*for Articles 15 and 16 of Regulation XX/2018 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC*], Articles 13 and 14 of Directive (EU) No 2016/680 and Articles 13 and 14 of Regulation (EU) 2016/679, persons whose data are stored in the shared biometric matching service *BMS*, the common identity repository *CIR* or the multiple identity detector *MID* shall be informed by the authority collecting their data *data controller*, at the time their data are collected *in accordance with paragraph 2*, about the processing of personal data for the purposes of this Regulation, including about identity and contact details of the respective data controllers, *about the period for which the personal data will be stored or about the criteria used to determine that period*, and about the procedures for exercising their rights of access, rectification and erasure, as well as about the contact details of the European Data Protection Supervisor and of the national supervisory authority of the Member State responsible for the collection of the data.

2. Persons whose data *are* ~~is~~ recorded in the EES, the VIS or [the ETIAS] shall be informed about the processing of *personal* data for the purposes of this Regulation in accordance with paragraph 1 when:
 - (a) [an individual file is created or updated in the EES in accordance with Article 14 of the EES Regulation];
 - (b) an application file is created or updated in the VIS in accordance with Article 8 of Regulation (EC) No 767/2008;
 - (c) [an application file is created or updated in the ETIAS in accordance with Article 17 of the ETIAS Regulation;].
 - (d) ~~——(not applicable);~~
 - (e) ~~——(not applicable);~~

Article 47

Right of access, ~~correction~~ rectification and erasure of data stored in the MID

1. In order to exercise their rights under Articles 13, 14, 15 and 16 of Regulation (EC) 45/2001 [*or Articles 17, 18, 19 and 20 of Regulation XX/2018 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC*], Article 16 of Directive (EU) No 2016/680 and Articles 15, 16, 17 and 18 of Regulation (EU) 2016/679, any person shall have the right to address him or herself to the ~~Member State responsible for the manual verification of different identities or~~ *competent authority* of any Member State, who shall examine and reply to the request.
2. ~~The Member State responsible for the manual verification of different identities as referred to in Article 29 or the Member State to which the request has been made~~ *That authority* shall reply to such requests within ~~45~~ *60* days of receipt of the request.
3. If a request for ~~correction~~ *rectification* or erasure of personal data is made to a Member State other than the Member State responsible *for the manual verification of different identities*, the Member State to which the request has been made shall contact the authorities of the Member State responsible *for the manual verification of different identities* within seven days. ~~and~~ *The Member State responsible for the manual verification of different identities* shall check the accuracy of the data and the lawfulness of the data processing within ~~30~~ *45* days of such contact.

- 3a. ***If a request for rectification or erasure of personal data is made to a Member State where the ETIAS Central Unit was responsible for the manual verification of different identities, the Member State to which the request has been made shall contact the ETIAS Central Unit within seven days and ask for its opinion to be given within 45 days of such contact.***
4. Where, following an examination, it is found that the data stored in the ~~multiple identity detector (MID)~~ are ~~factually~~ inaccurate or have been recorded unlawfully, the Member State responsible ***for the manual verification of different identities*** or, where ***there was no Member State responsible for the manual verification or where the ETIAS Central Unit was responsible for the manual verification*** applicable, the Member State to which the request has been made shall correct or delete these data.
5. Where data ***stored*** in the MID is amended by ~~a the responsible~~ Member State during its validity period, ~~the responsible~~ ***that*** Member State shall carry out the processing laid down in Article 27 and, where relevant, Article 29 to determine whether the amended data shall be linked. Where the processing does not report any hit, ~~the responsible~~ ***that*** Member State or, where applicable, ~~the Member State to which the request has been made~~ shall delete the data from the identity confirmation file. Where the automated processing reports one or several hit(s), ~~the responsible~~ ***that*** Member State shall create or update the relevant link in accordance with the relevant provisions of this Regulation.
6. Where the ~~responsible~~ Member State ***responsible for the manual verification of different identities*** or, where applicable, the Member State to which the request has been made does not agree that data stored in the MID are ~~factually~~ inaccurate or have been recorded unlawfully, that Member State shall adopt an administrative decision explaining in writing to the person concerned without delay why it is not prepared to correct or delete data relating to him or her.
7. This decision shall also provide the person concerned with information explaining the possibility to challenge the decision taken in respect of the request ***for rectification or erasure of personal data*** ~~referred in paragraph 3~~ and, where relevant, information on how to bring an action or a complaint before the competent authorities or courts, and any assistance, including from the ~~competent~~ national supervisory authorities.
8. Any request ***for rectification or erasure of personal data*** ~~made pursuant to paragraph 3~~ shall contain the necessary information to identify the person concerned. That information shall be used exclusively to enable the exercise of the rights referred to in ~~paragraph 3~~ ***this Article*** and shall be erased immediately afterwards.
9. The ~~responsible~~ Member State ***responsible for the manual verification of different identities*** or, where applicable, the Member State to which the request has been made shall keep a record in the form of a written document that a request ***for rectification or erasure of personal data*** ~~referred to in paragraph 3~~ was made and how it was addressed, and shall make that document available to ~~competent data protection~~ national supervisory authorities without delay.

Article 47a²⁴

Penalties

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

Article 47b

Liability

- 1. Without prejudice to the right to compensation from, and liability of the controller or processor under Regulation (EU) 2016/679, Directive (EU) 2016/680 and Regulation (EC) 45/2001:***
 - (a) any person or Member State that has suffered material or non-material damage as a result of an unlawful personal data processing operation or any other act incompatible with this Regulation by a Member State shall be entitled to receive compensation from that Member State;***
 - (b) any person or Member State that has suffered material or non-material damage as a result of any act by eu-LISA incompatible with this Regulation shall be entitled to receive compensation from that agency. eu-LISA shall be liable for unlawful personal data processing operations in accordance with its role as processor or, where applicable, controller.***

That Member State or eu-LISA shall be exempted from their liability, in whole or in part, if they prove that they are not responsible for the event which gave rise to the damage.

- 2. If any failure of a Member State to comply with its obligations under this Regulation causes damage to the interoperability components, that Member State shall be held liable for such damage, unless and insofar as eu-LISA or another Member State participating in the interoperability components failed to take reasonable measures to prevent the damage from occurring or to minimise its impact***
- 3. Claims for compensation against a Member State for the damage referred to in paragraphs 1 and 2 shall be governed by the national law of the defendant Member State. Claims for compensation against the controller or eu-LISA for the damage referred to in paragraphs 1 and 2 shall be subject to the conditions provided for in the Treaties.***

²⁴ Articles 47a and 47b are copied from the text agreed with the EP on the ETIAS Regulation.

Article 48

Communication of personal data to third countries, international organisations and private parties

Without prejudice to [Article 55 of the ETIAS Regulation], Article 41 of Regulation (EU) 2017/2226, and Article 31 of Regulation (EC) 767/2008, personal data stored in or accessed by the interoperability components shall not be transferred or made available to any third country, to any international organisation or to any private party, with the exception of transfers to Interpol for the purpose of carrying out the automated processing referred to in [Article 18(2)(b) and (m) of the ETIAS Regulation] or for the purposes of Article 8(2) of Regulation (EU) 2016/399. Such transfers of personal data to Interpol shall be compliant with the provisions of Article 9 of Regulation (EC) No 45/2001 **[or Chapter V of Regulation XX/2018 of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC]** and Chapter V of Regulation (EU) 2016/679.

Article 49

*Supervision by the ~~national~~ supervisory ~~authority~~ **authorities***

1. The supervisory ~~authority~~ or ~~authorities~~ designated pursuant to Article 49 of Regulation ~~(EU) 2016/679~~ shall ensure that an audit of the **personal** data processing operations by the responsible national authorities **for the purposes of this Regulation** is carried out in accordance with relevant international auditing standards at least every four years.
2. Member States shall ensure that their supervisory ~~authority~~ **has authorities have** sufficient resources to fulfil the tasks entrusted to ~~it~~ **them** under this Regulation.
3. **Each Member State shall ensure that the supervisory authority established in accordance with Article 51(1) of Regulation (EU) 2016/679 independently monitors the lawfulness of the processing of personal data referred to in this Regulation by the Member State concerned, including their transmission to and from the components of interoperability.**

Article 50

*~~Supervision~~ **Audit** by the European Data Protection Supervisor*

The European Data Protection Supervisor shall ensure that an audit of ~~eu-LISA's~~ personal data processing ~~activities~~ **operations by eu-LISA, [the ETIAS Central Unit] and Europol for the purposes of this Regulation** is carried out in accordance with relevant international auditing standards at least every four years. A report of that audit shall be sent to the European Parliament, the Council, eu-LISA, the Commission, ~~and~~ the Member States **and the EU agency concerned.** eu-LISA, **[the ETIAS Central Unit] and Europol** shall be given an opportunity to make comments before the reports are adopted.

Article 51
Cooperation between ~~national~~ supervisory authorities and the European Data Protection Supervisor

1. The European Data Protection Supervisor shall act in close cooperation with national supervisory authorities with respect to specific issues requiring national involvement, in particular if the European Data Protection Supervisor or a ~~national~~ supervisory authority finds major discrepancies between practices of Member States or finds potentially unlawful transfers using the communication channels of the interoperability components, or in the context of questions raised by one or more ~~national~~ supervisory authorities on the implementation and interpretation of this Regulation.
2. In the cases referred to in paragraph 1, coordinated supervision shall be ensured in accordance with *[Article 62 of Regulation (EU) XXXX/2018 ~~revised Regulation 45/2001~~ of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC]*.

CHAPTER VIII Responsibilities

Article 52

Responsibilities of eu-LISA during the design and development phase

1. eu-LISA shall ensure that the central infrastructures of the interoperability components are operated in accordance with this Regulation.
2. The interoperability components shall be hosted by eu-LISA in its technical sites and shall provide the functionalities laid down in this Regulation in accordance with the conditions of security, availability, quality and ~~speed~~ **performance** referred to in Article 53(1).
3. eu-LISA shall be responsible for the development of the interoperability components, for any adaptations required for establishing interoperability between the central systems of the EES, VIS, [ETIAS], SIS, and Eurodac, and [the ECRIS-TCN system], and the European search portal (**ESP**), the shared biometric matching service (**BMS**), the common identity repository (**CIR**), ~~and~~ the multiple-identity detector (**MID**) **and the central repository for reporting and statistics (CRRS)**.

eu-LISA shall define the design of the physical architecture of the interoperability components including their communication infrastructures and the technical specifications and their evolution as regards the central infrastructure and the secure communication infrastructure, which shall be adopted by the Management Board, subject to a favourable opinion of the Commission. eu-LISA shall also implement any necessary adaptations to the EES, **VIS**, [ETIAS]; **or** SIS ~~or VIS~~ deriving from the establishment of interoperability and provided for by this Regulation.

eu-LISA shall develop and implement the interoperability components as soon as possible after the entry into force of this Regulation and the adoption by the Commission of the measures provided for in Articles 8(2), 9(7), 28(5) and (6), 37(4), 38(4), 39(5) and 44(5).

The development shall consist of the elaboration and implementation of the technical specifications, testing and overall project coordination.

4. During the design and development phase, a Programme Management Board composed of a maximum of 10 members shall be established. It shall be composed of seven members appointed by eu-LISA's Management Board from among its members or its alternates, the Chair of the Interoperability Advisory Group referred to in Article 65, a member representing eu-LISA appointed by its Executive Director, and one member appointed by the Commission. The members appointed by eu-LISA's Management Board shall be elected only from those Member States that are fully bound under Union law by the legislative instruments governing the development, establishment, operation and use of all the ~~large-scale IT~~ **EU information** systems ~~managed by eu-LISA~~ and which will participate in the interoperability components.

5. The Programme Management Board shall meet regularly and at least three times per quarter. It shall ensure the adequate management of the design and development phase of the interoperability components.

The Programme Management Board shall every month submit to ~~the~~ eu-LISA's Management Board written reports on progress of the project. The Programme Management Board shall have no decision-making power nor any mandate to represent the members of eu-LISA's Management Board.

6. eu-LISA's Management Board shall establish the rules of procedure of the Programme Management Board, which shall include in particular rules on:
- (a) chairmanship;
 - (b) meeting venues;
 - (c) preparation of meetings;
 - (d) admission of experts to the meetings;
 - (e) communication plans ensuring full information to non-participating Members of the Management Board.

The chairmanship shall be held by a Member State that is fully bound under Union law by the legislative instruments governing the development, establishment, operation and use of all the EU information systems ~~large scale IT systems managed by eu-LISA~~.

All travel and subsistence expenses incurred by the members of the Programme Management Board shall be paid by the Agency, and Article 10 of the eu-LISA Rules of Procedure shall apply *mutatis mutandis*. eu-LISA shall provide the Programme Management Board with a secretariat.

The Interoperability Advisory Group referred to in Article 65 shall meet regularly until the start of operations of the interoperability components. It shall report after each meeting to the Programme Management Board. It shall provide the technical expertise to support the tasks of the Programme Management Board and shall follow up on the state of preparation of the Member States.

Article 52a
Business Continuity

Interoperability of central EU information systems supported by this Regulation shall be accompanied by business continuity solutions that ensure 99,99% per month availability of the data stored in the CIR and shared BMS, supported by the MID, and accessed by the ESP. The ESP, the shared BMS, the CIR, the MID and the backup solution shall be located in the technical sites of eu-LISA.

Article 53

Responsibilities of eu-LISA following the entry into operations

1. Following the entry into operations of each interoperability component, eu-LISA shall be responsible for the technical management of the central infrastructure ~~and the national uniform interfaces~~. In cooperation with the Member States, it shall ensure ~~at all times~~ the best available technology, subject to a cost-benefit analysis. eu-LISA shall also be responsible for the technical management of the communication infrastructure referred to in Articles 6, 12, 17, 25 and 39.

Technical management of the interoperability components shall consist of all the tasks necessary to keep the interoperability components functioning **providing uninterrupted services to the Member States** 24 hours a day, 7 days a week in accordance with this Regulation, in particular the maintenance work and technical developments necessary to ensure that the components function at a satisfactory level of technical quality, in particular as regards the response time for interrogation of the central infrastructures in accordance with the technical specifications.

2. Without prejudice to Article 17 of the Staff Regulations of Officials of the European Union, eu-LISA shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality to its entire staff required to work with data stored in the interoperability components. This obligation shall also apply after such staff leave office or employment or after the termination of their activities.
3. eu-LISA shall develop and maintain a mechanism and procedures for carrying out quality checks on the data stored in the shared biometric matching service and the common identity repository in accordance with Article 37.
4. eu-LISA shall also perform tasks related to providing training on the technical use of the interoperability components.

Article 54
Responsibilities of Member States

1. Each Member State shall be responsible for:
 - (a) the connection to the communication infrastructure of the ~~European search portal (ESP)~~ and the ~~common identity repository (CIR)~~;
 - (b) the integration of the existing national systems and infrastructures with the ESP, ~~shared biometric matching service~~, the CIR and the ~~multiple identity detector MID~~;
 - (c) the organisation, management, operation and maintenance of its existing national infrastructure and of its connection to the interoperability components;
 - (d) the management of, and arrangements for, access by the duly authorised staff ~~and by the duly empowered staff~~ of the competent national authorities to the ESP, the CIR and the ~~multiple identity detector MID~~ in accordance with this Regulation and the creation and regular update of a list of those staff and their profiles;
 - (e) the adoption of the legislative measures referred to in Article 20(3)(2) and 20(2a) in order to access the CIR for identification purposes;
 - (f) the manual verification of different identities referred to in Article 29;
 - (g) the ~~implementation~~ **compliance with** data quality requirements ~~in the EU information systems and in the interoperability components~~ **established under Union law**;
 - (h) remedying any deficiencies identified in the Commission's evaluation report concerning data quality referred to in Article 37(5).

2. Each Member State shall connect their designated authorities ~~referred to in Article 4(24)~~ to the CIR.

Article 55
Responsibilities of the ETIAS Central Unit

The ETIAS Central Unit shall be responsible for:

- (a) the manual verification of different identities referred to in Article 29(1)(c);
- (b) carrying out a multiple-identity detection between the data stored in the *EES*, VIS, Eurodac and the SIS referred to in Article 59.

CHAPTER IX

Amendments to other Union instruments

Article 55a²⁵ *Amendments to Regulation (EU) 2016/399*

Regulation (EU) 2016/399 is amended as follows:

In Article 8 of Regulation (EU) 2016/399, the following paragraph 4a is added:

"4a. The border guard ~~at second line~~ shall consult the multiple-identity detector together with the common identity repository referred to in [Article 4(35) of Regulation 2018/XX on interoperability] or the Schengen Information System or both to assess the differences in the linked identities and shall carry out any additional verification necessary to take a decision on the status and colour of the link as well as to take a decision on the entry or refusal of entry of the person concerned.

In accordance with [Article 59(1) of Regulation 2018/XX], this paragraph shall apply only as from the start of operations of the multiple-identity detector. "

Article 55b *Amendments to Regulation (EU) 2017/2226*

Regulation (EU) 2017/2226 is amended as follows:

1) In Article 1, the following paragraph is added:

"1a. By storing identity, travel document and biometric data in the common identity repository (CIR) established by [Article 17 of Regulation 2018/XX on interoperability], the EES contributes to facilitating and assisting in the correct identification of persons registered in the EES under the conditions and for the ultimate objectives referred to in [Article 20] of that Regulation."

1a) Article 3(1)(18) shall be replaced by the following:

“(18) ‘biometric data’ means fingerprint data or facial image;”

2) In Article 3, the following point (21a) is added:

""CIR' means the common identity repository as defined in [Article 4(35) of Regulation 2018/XX on interoperability]

3) Article 3(1)(22) shall be replaced by the following:

“(22) 'EES data' means all data stored in the EES Central System and in the CIR in accordance with ~~Article 14 and~~ Articles 15 ~~16~~ to 20.

²⁵ **PT** scrutiny reservation.

- 4) In Article 3, a new point (22a) is added:
- "(22a) 'identity data' means the data referred to in Article 16(1)(a), **as well the relevant data referred to in Articles 17(1) and 18(1)**;
- 5) In Article 6(1), the following point is inserted:
- "(j) ensure the correct identification of persons."
- 6) Article 7(1)(a) is replaced by the following:
- "(a) the common identity repository (CIR) as referred to in [Article 17(2)(a) of Regulation 2018/XX on interoperability];
- (aa) a Central System (EES Central System);"
- 7) In Article 7(1), point (f) is replaced by the following:
- "(f) a secure communication infrastructure between the EES Central System and the central infrastructures of the European search portal established by [Article 6 of Regulation 2018/XX on interoperability], the shared biometric matching service established by [Article 12 of Regulation 2018/XX on interoperability], the common identity repository established by [Article 17 of Regulation 2018/XX on interoperability] and the multiple-identity detector established by [Article 25 of Regulation 2018/XX on interoperability]"
- 8) In Article 7, the following paragraph is added:
- "1a. The CIR shall contain the data referred to in Article 16(1)(a) to (d), ~~and~~ Article 17(1)(a) to (c) **and Article 18(1) and (2)**, the remaining EES data shall be stored in the EES Central System.
- 9) In Article 9, the following paragraph is added:
- ~~"3.~~ **4.** Access to consulting the EES data stored in the CIR shall be reserved exclusively for the duly authorised staff of the national authorities of each Member State and for the duly authorised staff of the EU ***agencies*** ~~bodies~~ that are competent for the purposes laid down in [Article 20 and Article 21 of Regulation 2018/XX on interoperability]. That access shall be limited to the extent necessary for the performance of the tasks of those national authorities and EU ***agencies*** ~~bodies~~ in accordance with those purposes and shall be proportionate to the objectives pursued."
- 10) In Article 21(1), the words "EES Central System" are replaced, ~~both times~~ ***every time*** they appear, by the words "EES Central System or the CIR".

- 11) In Article 21(2), the words "both the EES Central System and in the NUI" are replaced by the words "both the EES Central System and the CIR on the one hand and in the NUI on the other".
- 12) In Article 21(2), the words "shall be entered in the EES Central System" are replaced by the words "shall be entered in the EES Central System and the CIR".

12a) Article 23(2) is replaced by the following:

"2. While performing the tasks referred to in paragraph 1 of this Article, the border authorities shall have access to search with the data referred to in points (a), (b) and (c) of Article 16(1) and point (a) of Article 17(1).

In addition, for the purposes of consulting the VIS for verification in accordance with Article 18 of Regulation (EC) No 767/2008, for third-country nationals who are subject to a visa requirement, the border authorities shall launch a search in the VIS directly from the EES using the same alphanumeric data-or, where applicable, consult the VIS in accordance with Article 18(2a) of Regulation (EC) No 767/2008. If the search in the EES with the data set out in the first subparagraph of this paragraph indicates that data on the third- country national are recorded in the EES, the border authorities shall compare the live facial image of the third-country national with the facial image referred to in point (d) of Article 16(1) and point (b) of Article 17(1) of this Regulation or the border authorities shall, in the case of visa-exempt third-country nationals, proceed to a verification of fingerprints against the EES and, in the case of third-country nationals subject to a visa requirement, proceed to a verification of fingerprints directly against the VIS in accordance with Article 18 of Regulation (EC) No 767/2008. For the verification of fingerprints against the VIS for visa holders, the border authorities may launch the search in the VIS directly from the EES as provided in Article 18(6) of that Regulation.

If the verification of the facial image fails, the verification shall be carried out using fingerprints and vice versa."

12b) A new paragraph 2a is added to Article 23:

"2a. For the purpose of the verifications set out in paragraph 1, the border authority shall launch a query by using the European Search Portal defined in [Article 6(1) of the Interoperability Regulation] to compare the data on the third-country national with the relevant data of the EES and the VIS."

12c) Article 23(4) is replaced by the following:

"4. Where the search with the alphanumeric data set out in paragraph 2 of this Article indicates that data on the third- country national are not recorded in the EES, where a verification of the third-country national pursuant to paragraph 2 of this Article fails or where there are doubts as to the identity of the third-country national, the border authorities shall have access to data for identification in accordance with Article 27 of this Regulation in order to create or update an individual file in accordance with Article 14.

In addition to the identification referred to in first subparagraph of this paragraph, the following provisions shall apply:

(a) for third-country nationals who are subject to a visa requirement, if the search in the VIS with the data referred to in Article 18(1) of Regulation (EC) No 767/2008 indicates that data on the third-country national are recorded in the VIS, a verification of fingerprints against the VIS shall be carried out in accordance with Article 18(5) of Regulation (EC) No 767/2008. For this purpose, the border authority may launch a search from the EES to the VIS as provided for in Article 18(6) of Regulation (EC) No 767/2008. Where a verification of a third-country national pursuant to paragraph 2 of this Article failed, the border authorities shall access the VIS data for identification in accordance with Article 20 of Regulation (EC) No 767/2008.

(b) for third-country nationals who are not subject to a visa requirement and for whom no data are found in the EES further to the identification run in accordance with Article 27 of this Regulation, the VIS shall be consulted in accordance with Article 19a of Regulation (EC) No 767/2008. The border authority may launch a search from the EES to the VIS as provided for in Article 19a of Regulation (EC) No 767/2008. "

12d) A new paragraph 5 is added to Article 23:

"5. For third-country nationals whose data are already recorded in the EES but whose individual file was created in the EES by a Member State which does not yet apply the Schengen acquis in full but operates the EES and whose data were entered in the EES on the basis of a national short-stay visa, the border authorities shall consult the VIS in accordance with point (a) of the second subparagraph of paragraph 4 when, for the first time after the creation of the individual file, the third-country national intends to cross the border of a Member State which applies the Schengen acquis in full and operates the EES."

13) A new paragraph (1a) is added to Article 32:

"1a. In cases where the designated authorities launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], they may access EES for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data *are* is-stored in the EES."

- 14) Article 32(2) is replaced by the following:
- "2. Access to the EES as a tool for the purpose of identifying an unknown suspect, perpetrator or suspected victim of a terrorist ~~offence~~ **offence** or otherwise serious criminal offence shall only be allowed when a query to the CIR was launched in accordance with [Article 22 of Regulation 2018/XX on interoperability] and all the conditions listed in paragraph 1 and paragraph 1a are met.
- However, this additional condition shall not apply in a case of urgency where there is a need to prevent an imminent danger to the life of a person associated with a terrorist offence or another serious criminal offence. Those reasonable grounds shall be included in the electronic or written request sent by the operating unit of the designated authority to the central access point."
- 15) Article 32(4) is deleted.
- 16) A new paragraph (1a) is added to Article 33:
- "1a. In cases where Europol launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], they may access EES for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data *are* ~~is~~ stored in the EES."
- 16a) Article 33(2), subparagraph 2 is deleted.**
- 17) In Article 33, paragraph 3 is replaced by the following:
- "The conditions laid down in Article 32(3) and (5) shall apply accordingly"
- 18) In Article 34(1) and (2), the words "in the EES Central System" shall be replaced by the words "in the CIR and in the EES Central System respectively".
- 18a) In Article 34, a new paragraph 3a is added:
- "3a. Where a red link is stored in the multiple identity detector (MID) established by [Article 25 of Regulation 2018/XX on interoperability] in accordance with [Article 32 of Regulation 2018/XX on interoperability], the linked EES data referred to in Article 16(1)(a) to (d) and Article 17(1)(a) to (c) and Article 18(2) shall be stored in the CIR in accordance with [Article 23(3) of Regulation 2018/XX on interoperability]."**
- 19) In Article 34(5), the words "of the EES Central System" shall be replaced by the words "from the EES Central System and from the CIR".

20) In Article 35, paragraph 7 is replaced by the following:

"The EES Central System and the CIR shall immediately inform all Member States of the erasure of EES or CIR data and where applicable remove them from the list of identified persons referred to in Article 12(3)."

21) In Article 36, the words "of the EES Central System" shall be replaced by the words "of the EES Central System and the CIR".

22) In Article 37(1), the words "development of the EES Central System", shall be replaced by the words "development of the EES Central System and the CIR".

23) In the first subparagraph of Article 37(3), the words "the EES Central System" shall be replaced, the first and the third time they appear, by the words "the EES Central System and the CIR".

24) In Article 46(1) the following point (f) is added:

"(f) ~~where relevant~~, a reference to the use of the European search portal to query the EES as referred to in [Article 7(2) of the Regulation 2018/XX on interoperability]."

25) Article 63(2) is replaced by the following:

"2. For the purpose of paragraph 1 of this Article, eu-LISA shall store the data referred to in paragraph 1 in the central repository for reporting and statistics referred to in [Article 39 of the Regulation 2018/XX on interoperability]."

26) In Article 63(4) a new subparagraph is added:

"The daily statistics shall be stored in the central repository for reporting and statistics."

Article 55c
Amendments to Council Decision 2004/512/EC

Council Decision 2004/512/EC establishing the Visa Information System (VIS) is amended as follows:

Article 1(2) is amended as follows:

"2. The Visa Information System shall be based on a centralised architecture and consist of:

- a) the common identity repository as referred to in [Article 17(2)(a) of Regulation 2018/XX on interoperability],
- b) a central information system, hereinafter referred to as ‘the Central Visa Information System’ (CS-VIS),
- c) an interface in each Member State, hereinafter referred to as ‘the National Interface’ (NI-VIS) which shall provide the connection to the relevant central national authority of the respective Member State;
- d) a communication infrastructure between the Central Visa Information System and the National Interfaces;
- e) a Secure Communication Channel between the EES Central System and the CS-VIS;
- f) a secure communication infrastructure between the VIS Central System and the central infrastructures of the European search portal established by [Article 6 of Regulation 2018/XX on interoperability], shared biometric matching service established by [Article 12 of Regulation 2018/XX on interoperability], the common identity repository and the multiple-identity detector (MID) established by [Article 25 of Regulation 2018/XX on interoperability]".

Article 55d
Amendments to Regulation (EC) 767/2008

1) In Article 1, the following paragraph is added:

"2. By storing identity, travel document and biometric data in the common identity repository (CIR) established by [Article 17 of Regulation 2018/XX on interoperability], the VIS contributes to facilitating and assisting in the correct identification of persons registered in the VIS under the conditions and for the ultimate objectives ~~laid down in paragraph 1 of this Article~~ **referred to in [Article 20] of that Regulation.**"

2) In Article 4, the following points are added:

"(12) 'VIS data' means all data stored in the VIS Central System and in the CIR in accordance with Articles 9 to 14.

"(13) 'identity data' means the data referred to in Article 9(4)(a) to aa);

(14) 'fingerprint data' means the data relating to the five fingerprints of the index, middle finger, ring finger, little finger and the thumb from the right hand where present, and from the left hand;

(15) 'facial image' means digital images of the face;

(16) 'biometric data' means fingerprint data ~~and~~ **or** facial image;"

3) In Article 5, the following paragraph is added:

"1a). The CIR shall contain the data referred to in Article 9(4)(a) to (ce), 9(5) and 9(6), the remaining VIS data shall be stored in the VIS Central System."

4) Article 6(2) is amended as follows:

"2. Access to the VIS for consulting the data shall be reserved exclusively for the duly authorised staff of the national authorities of each Member State which are competent for the purposes laid down in Article 15 to 22, and for the duly authorised staff of the national authorities of each Member State and of the EU **agencies** ~~bodies~~ which are competent for the purposes laid down in [Article 20 and Article 21 of the Regulation 2018/XX on interoperability], limited to the extent that the data are required for the performance of their tasks in accordance with those purposes, and proportionate to the objectives pursued."

5) Article 9(4) (a) to (c) is amended as follows:

- "(a) surname (family name); first name or names (given names); date of birth; nationality or nationalities; sex;
- (aa) surname at birth (former surname(s)); place and country of birth; nationality at birth;
- (b) the type and number of the travel document or documents and the three-letter code of the issuing country of the travel document or documents;
- (c) the date of expiry of the validity of the travel document or documents;
- (cc) the authority which issued the travel document and its date of issue;

6) Article 9(5) is replaced by the following:

"facial image as defined in ~~Article 4(15)~~".

6a) A second sentence is added in Article 23(1), as follows:

"Where a red link is stored in the multiple identity detector (MID) established by [Article 25 of Regulation 2018/XX on interoperability] in accordance with [Article 32 of Regulation 2018/XX on interoperability], the linked VIS data referred to in Article 9(4)(a) to (cc), 9(5) and 9(6) shall be stored in the CIR in accordance with [Article 23(3) of Regulation 2018/XX on interoperability]"

~~7) In Article 29(2)(a) the word "VIS" is replaced by the words "VIS or the CIR" in both instances where it appears.~~

Article 55e
Amendments to Council Decision 2008/633/JHA

1) A new paragraph (1a) is added to Article 5:

"1a. In cases where the designated authorities launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], they may access VIS for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data **are** ~~is~~-stored in the VIS."

2) A new point (1a) is added to Article 7:

"1a. In cases where Europol launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], they may access VIS for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data **are** ~~is~~-stored in the VIS."

CHAPTER X

Final provisions

Article 56

Reporting and statistics

1. The duly authorised staff of the competent authorities of Member States, the Commission and eu-LISA shall have access to consult the following data related to the European search portal (ESP), solely for the purposes of reporting and statistics without enabling individual identification:
 - (a) number of queries per user of the ESP profile;
 - (b) number of queries to each of the Interpol databases.

2. The duly authorised staff of the competent authorities of Member States, the Commission and eu-LISA shall have access to consult the following data related to the common identity repository (**CIR**), solely for the purposes of reporting and statistics without enabling individual identification:
 - (a) number of queries for the purposes of Articles 20, 21 and 22;
 - (b) nationality, ~~sex~~ **gender** and year of birth of the person;
 - (c) the type of the travel document and the three-letter code of the issuing country;
 - (d) the number of searches conducted with and without biometric data.

3. The duly authorised staff of the competent authorities of Member States, the Commission and eu-LISA shall have access to consult the following data related to the multiple-identity detector (**MID**), solely for the purposes of reporting and statistics without enabling individual identification:
 - ~~(a) nationality, sex and year of birth of the person;~~
 - ~~(b) the type of the travel document and the three-letter code of the issuing country;~~
 - (c) the number of searches conducted with and without biometric data;
 - (d) the number of each type of link **and the EU information systems between which each link was established**;-
 - (e) **the period of time a yellow link remained.**

4. The duly authorised staff of the European Border and Coast Guard Agency established by Regulation (EU) 2016/1624 of the European Parliament and of the Council²⁶ shall have access to consult the data referred to in paragraphs 1, 2 and 3 for the purpose of carrying out risk analyses and vulnerability assessments as referred to in Articles 11 and 13 of that Regulation.
- 4a. The duly authorised staff of Europol shall have access to consult the data referred to in paragraphs 1, 2 and 3 for the purpose of carrying out strategic, thematic and operational analyses as referred to in Article 18(2)(b) and (c) of Regulation (EU) No 2016/794.**
5. For the purpose of paragraph 1 of this Article, eu-LISA shall store the data referred to in paragraph 1 of this Article in the central repository for reporting and statistics referred to in Chapter VII of this Regulation. The data included in the repository shall not enable the identification of individuals, but it shall allow the authorities listed in paragraph 1 of this Article to obtain customisable reports and statistics to enhance the efficiency of border checks, to help authorities processing visa applications and to support evidence-based policymaking on migration and security in the Union.

Article 57

Transitional period for the use of the European search portal

1. For a period of two years from the date the ESP commences operations, the obligations referred to in Article 7(2) and (4) shall not apply and the utilisation of the ESP shall be optional.
2. **Following the period referred to in paragraph 1, the Commission, in close cooperation with Member States and eu-LISA, shall assess the impact of the ESP on border controls. On the basis of this assessment, and after consultation with the Member States, the Commission may adopt a delegated act in accordance with Article 63 to extend the period referred to in paragraph 1 until any potential technical issues linked to the ESP has been solved for a maximum of additional two years.**²⁷

²⁶ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).

²⁷ NL scrutiny reservation (prefers implementing acts to delegated acts).

Article 58

Transitional period applicable to the provisions on access to the common identity repository for ~~law enforcement~~ purposes of preventing, detecting and investigating terrorist offences or other serious criminal offences

Article 22, points 13, 14, 15, **16** and **16a** of Article 55b and Article 55e shall apply from the date of the start of operations referred to in Article 62(1).

Article 59

Transitional period for the multiple-identity detection

1. For a period of one year following the notification by eu-LISA of the completion of the test referred to in Article 62(1)(b) regarding the ~~multiple-identity detector (MID)~~ and before the start of operations of the MID, the ETIAS Central Unit as referred to in [Article 33(a) of Regulation (EU) 2016/1624] shall be responsible for carrying out a multiple-identity detection between the data stored in the *EES*, VIS, Eurodac and the SIS. The multiple-identity detections shall be carried out using only biometric data in accordance with Article 27(2) of this Regulation.

2. Where the query reports one or several hit(s) and the identity data of the linked files is identical or similar, a white link shall be created in accordance with Article 33.

Where the query reports one or several hit(s) and the identity data of the linked files cannot be considered as similar, a yellow link shall be created in accordance with Article 30 and the procedure referred to in Article 29 shall apply.

Where several hits are reported, a link shall be created to each piece of data triggering the hit.

3. Where a yellow link is created, the MID shall grant access to the identity data present in the different information systems to the ETIAS Central Unit.

4. Where a link is created to an alert in the SIS, other than a refusal of entry alert or an alert on a travel document reported lost, stolen or invalidated in accordance with Article 24 of the Regulation on SIS in the field of border checks and Article 38 of the Regulation on SIS in the field of law enforcement respectively, the MID shall grant access to the identity data present in the different information systems to the SIRENE Bureau of the Member State that created the alert.

5. The ETIAS Central Unit or the SIRENE Bureau of the Member State that created the alert shall have access to the data contained in the identity confirmation file and shall assess the different identities and shall update the link in accordance with Articles 31, 32 and 33 and add it to the identity confirmation file.

6. ~~eu-LISA~~ *Member States* shall assist where necessary the ETIAS Central Unit in carrying out the multiple-identity detection referred to in this Article.
7. *Where a red link is created between data in the CIR, the identity confirmation file including the red link shall be stored in the MID at least for three years or for as long as the corresponding data are stored in at least one of the EU information systems.*
8. *Where a red link is created between data in the CIR, the linked data referred to in Article 18(1), (2) and (2a) shall be stored in the CIR at least for three years or for as long as the corresponding data are stored in at least one of the EU information systems.*
9. *Where a red link is created between data in the CIR and the SIS, the linked data referred to in Article 18(1), (2) and (2a) shall be stored in the CIR for as long as the corresponding data are stored in the SIS.*

Article 60
Costs²⁸

1. The costs incurred in connection with the establishment and operation of the ESP, the shared biometric matching service (*BMS*), the ~~common identity repository (CIR)~~ and the MID shall be borne by the general budget of the Union.
2. Costs incurred in connection with the integration of the existing national infrastructures and their connection to the national uniform interfaces ~~as well as in connection with hosting the national uniform interfaces~~ shall be borne by the general budget of the Union.

The following costs shall be excluded:

- (a) Member States' project management office (meetings, missions, offices);
 - (b) hosting of national IT systems (space, implementation, electricity, cooling);
 - (c) operation of national IT systems (operators and support contracts);
 - (d) design, development, implementation, operation and maintenance of national communication networks.
3. The costs incurred by the designated authorities referred to in Article 4(24) shall be borne, respectively, by each Member State and Europol. The costs for the connection of the designated authorities to the CIR shall be borne by each Member State and Europol, respectively.

²⁸ CH: scrutiny reservation

Article 61
Notifications

1. The Member States shall notify eu-LISA of the authorities referred to in Articles 7, 20, 21 and 26 that may use or have access to the ESP, the CIR and the MID respectively.

A consolidated list of those authorities shall be published in the *Official Journal of the European Union* within a period of three months from the date on which each interoperability component commenced operations in accordance with Article 62. Where there are amendments to the list, eu-LISA shall publish an updated consolidated list once a year.

2. eu-LISA shall notify the Commission of the successful completion of the test referred to in Article 62(1)(b).
3. The ETIAS Central Unit shall notify the Commission of the successful completion of the transitional measure laid down in Article 59.
4. The Commission shall make available to the Member States and the public, by a constantly updated public website, the information notified pursuant to paragraph 1.

Article 62
Start of operations

1. The Commission shall decide the date from which each interoperability component is to start operations, after the following conditions are met:
 - (a) the measures referred to in Articles 8(2), 9(7), 28(5) and (6), 37(4), 38(4), 39(5) and 44(5) have been adopted;
 - (b) eu-LISA has declared the successful completion of a comprehensive test of the relevant interoperability component, which is to be conducted by eu-LISA in cooperation with the Member States, ***the ETIAS Central Unit and Europol***;
 - (c) eu-LISA has validated the technical and legal arrangements to collect and transmit the data referred to in Articles 8(1), 13, ~~19~~ **18**, 34 and 39 and ~~have~~ **has** notified them to the Commission;
 - (d) the Member States have notified the Commission as referred to in Article 61(1);
 - (e) for the multiple-identity detector, the ETIAS Central Unit has notified the Commission as referred to in Article 61(3).
2. The Commission shall inform the European Parliament and the Council of the results of the test carried out pursuant to paragraph 1(b).
3. The Commission decision referred to in paragraph 1 shall be published in the *Official Journal of the European Union*.
4. ~~The~~ Member States, ***the ETIAS Central Unit*** and Europol shall start using the interoperability components from the date determined by the Commission in accordance with paragraph 1.

Article 63
*Exercise of the delegation*²⁹

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Articles 8(2), ~~and~~ 9(7) **and 57(2)** shall be conferred on the Commission for ~~an indeterminate~~ a period of **five years** ~~time~~ from [*the date of entry into force of this Regulation*]. **The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**
3. The delegation of power referred to in Articles 8(2), ~~and~~ 9(7) **and 57(2)** may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.
5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 8(2), ~~and~~ 9(7) **and 57(2)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council³⁰.

²⁹ NL: scrutiny reservation

³⁰ NL: scrutiny reservation.

Article 64
Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. ***Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.***

Article 65
Advisory group

An Advisory Group shall be established by eu-LISA in order to provide it with the expertise related to interoperability, in particular in the context of the preparation of its annual work programme and its annual activity report. During the design and development phase of the interoperability instruments, Article 52(4) to (6) shall apply.

Article 66
Training

1. eu-LISA shall perform tasks related to the provision of training on the technical use of the interoperability components in accordance with Regulation (EU) No 1077/2011.
2. ***The staff of Member State authorities, [the ETIAS Central Unit] and Europol, authorised to process data from the interoperability components, shall receive appropriate training about data security, data protection rules and the procedures of data processing.***

Article 67
Practical handbook

The Commission shall, in close cooperation with the Member States, eu-LISA and other relevant agencies, make available a practical handbook for the implementation and management of the interoperability components. The practical handbook shall provide technical and operational guidelines, recommendations and best practices. The Commission shall adopt the practical handbook in the form of a recommendation.

Article 68
Monitoring and evaluation

1. eu-LISA shall ensure that procedures are in place to monitor the development of the interoperability components in light of objectives relating to planning and costs and to monitor the functioning of the interoperability components in light of objectives relating to the technical output, cost-effectiveness, security and quality of service.
2. By [*Six months after the entry into force of this Regulation* — OPOCE, please replace with the actual date] and every six months thereafter during the development phase of the interoperability components, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of the interoperability components. Once the development is finalised, a report shall be submitted to the European Parliament and the Council explaining in detail how the objectives, in particular relating to planning and costs, were achieved as well as justifying any divergences.
3. For the purposes of technical maintenance, eu-LISA shall have access to the necessary information relating to the data processing operations performed in the interoperability components.
4. Four years after the start of operations of each interoperability component and every four years thereafter, eu-LISA shall submit to the European Parliament, the Council and the Commission a report on the technical functioning of the interoperability components, including the security thereof.
5. In addition, one year after each report from eu-LISA, the Commission shall produce an overall evaluation of the components, including:
 - (a) an assessment of the application of this Regulation;
 - (b) an examination of the results achieved against objectives and the impact on fundamental rights;
 - (c) an assessment of the continuing validity of the underlying rationale of the interoperability components;
 - (d) an assessment of the security of the interoperability components;
 - (e) an assessment of any implications, including any disproportionate impact on the flow of traffic at border crossing points and those with a budgetary impact on the Union budget.

The evaluations shall include any necessary recommendations. The Commission shall transmit the evaluation report to the European Parliament, to the Council, to the European Data Protection Supervisor and to the European Union Agency for Fundamental Rights established by Council Regulation (EC) No 168/2007.³¹

³¹ Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

6. The Member States and Europol shall provide eu-LISA and the Commission with the information necessary to draft the reports referred to in paragraphs 4 and 5. This information shall not jeopardise working methods or include information that reveals sources, staff members or investigations of the designated authorities.
7. eu-LISA shall provide the Commission with the information necessary to produce the evaluations referred to in paragraph 5.
- 7a. ***A technical solution shall be made available to Member States in order to facilitate the querying of EU information systems and the CIR pursuant to Article 22 for the purpose of managing users request and generating statistics referred to in this paragraph. The Commission shall adopt implementing acts concerning the specifications of the technical solution. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).***
- 8.³² While respecting the provisions of national law on the publication of sensitive information, each Member State and Europol shall prepare annual reports on the effectiveness of access to data stored in the common identity repository for law enforcement purposes ***of preventing, detecting and investigation terrorist offences or other serious criminal offences***, containing information and statistics on:
- (a) the exact purpose of the consultation including the type of terrorist or serious criminal offence;
 - (b) reasonable grounds given for the substantiated suspicion that the suspect, perpetrator or victim is covered by the ~~[EES Regulation]~~ ***Regulation (EU) 2017/2226***, the ~~VIS Regulation (EC) No 767/2008~~ or the [ETIAS Regulation];
 - (c) the number of requests for access to the ~~CIR common identity repository~~ for law enforcement purposes ***of preventing, detecting and investigation terrorist offences or other serious criminal offences***;
 - (d) the number and type of cases that have ended in successful identifications;
 - (e) the need and use made of the exceptional case of urgency including those cases where that urgency was not accepted by the *ex post* verification carried out by the central access point.

Member State and Europol annual reports shall be transmitted to the Commission by 30 June of the subsequent year.

³² **FR:** scrutiny reservation.

Article 69
Entry into force ~~and applicability~~

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Strasbourg,

For the European Parliament

The President

For the Council

The President
