

Council of the European Union

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NOTE

From:	Presidency Permanent Representatives Committee/Mixed Committee		
То:			
No. prev. doc.:	6960/17; 9415/17		
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the European Union and determining the conditions for access to the EES for law enforcement purposes and amending Regulation (EC) No 767/2008 and Regulation (EU) No 1077/2011		

Delegations will find enclosed the 4-column table on the above proposal.

4-column table on the **Regulation establishing an Entry/Exit System (EES) to register entry** and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the European Union and determining the conditions for access to the EES for law enforcement purposes and amending Regulation (EC) No 767/2008 and Regulation (EU) No 1077/2011, which comprises the Commission proposal, the mandate for negotiations as voted in the LIBE Committee of the EP on 27/02 and the Coreper mandate of 2 March 2017.

The markings in this table are to be read as follows:

- Second column with EP position: new text is marked in bold italics; deleted parts of the text are marked in strikethrough, text identical with the Commission proposal is marked with a diagonal line in the box.
- Third column with Coreper mandate: new text is marked in underlined; deleted parts of the text are marked in [...].
- Fourth column:
 - the diagonal line in the box indicates that the text is identical for all three institutions.
 - text provisionally agreed indicated in yellow. <u>Confirmation of this provisional agreement</u> <u>does not include the square brackets</u> (which are in blue) <u>"Nothing is agreed until everything</u> <u>is agreed" remains the basic principle.</u>
 - text provisionally agreed but not yet confirmed at technical level or pending compromise proposals have no colour.
 - Presidency proposals in red.

COMMISSION PROPOSAL	EP POSITION	COUNCIL POSITION	COMPROMISE
THE EUROPEAN PARLIAMENT	THE EUROPEAN PARLIAMENT	THE EUROPEAN PARLIAMENT	
AND THE COUNCIL OF THE	AND THE COUNCIL OF THE	AND THE COUNCIL OF THE	
EUROPEAN UNION,	EUROPEAN UNION	EUROPEAN UNION	
Having regard to the Treaty of the	Having regard to the Treaty of the	Having regard to the Treaty of the	Provisionally agreed:
Functioning of the European Union,	Functioning of the European Union,	Functioning of the European Union,	Having regard to the Treaty of the
and in particular, Article 77(2)(b)	and in particular, Article 77(2)(b)	and in particular, Article 77(2)(b)	Functioning of the European Union,
and (d), Article 87(2)(a) and Article	and (d), Article 87(2)(a) and Article	and (d) and Article 87(2)(a) []	and in particular, Article 77(2)(b)
88(2)(a) thereof,	88(2)(a) thereof,	thereof,	and (d) and Article 87(2)(a) thereof,
Having regard to the proposal from	Having regard to the proposal from	Having regard to the proposal from	Having regard to the proposal from
the European Commission,	the European Commission,	the European Commission,	the European Commission,
After transmission of the draft	After transmission of the draft	After transmission of the draft	After transmission of the draft
legislative act to the national	legislative act to the national	legislative act to the national	legislative act to the national
parliaments,	parliaments,	parliaments,	parliaments,
Having regard to the opinion of the	Having regard to the opinion of the	Having regard to the opinion of the	Having regard to the opinion of the
European Economic and Social	European Economic and Social	European Economic and Social	European Economic and Social
Committee ¹ ,	Committee ¹ ,	Committee ¹ ,	Committee ¹ ,
Having regard to the opinion of the	Having regard to the opinion of the	Having regard to the opinion of the	Having regard to the opinion of the
Committee of the Regions ² ,	Committee of the Regions^2 ,	Committee of the Regions^2 ,	Committee of the Regions ² ,
Acting in accordance with the	Acting in accordance with the	Acting in accordance with the	Acting in accordance with the
ordinary legislative procedure,	ordinary legislative procedure,	ordinary legislative procedure,	ordinary legislative procedure,
Whereas:	Whereas:	Whereas:	Whereas:
(1) The Communication of the	(1) The Communication of the	(1) The Communication of the	
Commission of 13 February 2008	Commission of 13 February 2008	Commission of 13 February 2008	
entitled 'preparing the next steps in	entitled 'preparing the next steps in	entitled 'preparing the next steps in	
churce preparing the next steps in	border management in the European	border management in the European	

OJ C , , p. . OJ C , , p. . 1 2

border management in the European Union ¹³ outlined the need, as part of the European integrated border management strategy, to establish an Entry/Exit System (EES) which registers electronically the time and place of entry and exit of third country nationals admitted for a short stay to the Schengen area and which calculates the duration of their authorised stay.	Union ³ outlined the need, as part of the European integrated border management strategy, to establish an Entry/Exit System (EES) which registers electronically the time and place of entry and exit of third country nationals admitted for a short stay to the Schengen area and which calculates the duration of their authorised stay.	Union ^{'3} outlined the need, as part of the European integrated border management strategy, to establish an Entry/Exit System (EES) which registers electronically the time and place of entry and exit of third country nationals admitted for a short stay to <u>the territory of the Member</u> <u>States</u> [] and which calculates the duration of their authorised stay.	
(2) The European Council of 19	(2) The European Council of 19	(2) The European Council of 19	
and 20 June 2008 underlined the	and 20 June 2008 underlined the	and 20 June 2008 underlined the	
importance of continuing to work on	importance of continuing to work on	importance of continuing to work on	
the development of the EU's	the development of the EU's	the development of the EU's	
integrated border management	integrated border management	integrated border management	
strategy, including better use of	strategy, including better use of	strategy, including better use of	
modern technologies to improve the	modern technologies to improve the	modern technologies to improve the	
management of external borders.	management of external borders.	management of external borders.	
(3) The Communication of the	(3) The Communication of the	(3) The Communication of the	
Commission of 10 June 2009,	Commission of 10 June 2009,	Commission of 10 June 2009,	
entitled 'An area of freedom, security	entitled 'An area of freedom, security	entitled 'An area of freedom, security	
and justice serving the citizens',	and justice serving the citizens',	and justice serving the citizens',	
advocates establishing an electronic	advocates establishing an electronic	advocates establishing an electronic	
system for recording entry to and exit	system for recording entry to and exit	system for recording entry to and exit	
from Member States' territory via the	from Member States' territory via the	from Member States' territory via the	
crossing of external borders to ensure	crossing of external borders to ensure	crossing of external borders to ensure	
more effective management of access	more effective management of access	more effective management of access	
to this territory.	to this territory.	to this territory.	

³ COM (2008) 69 final.

(4) The European Council of 23	(4) The European Council of 23	(4) The European Council of 23	
and 24 of June 2011 called for work	and 24 of June 2011 called for work	and 24 of June 2011 called for work	
on "smart borders" to be pushed	on "smart borders" to be pushed	on "smart borders" to be pushed	
forward rapidly. The Commission	forward rapidly. The Commission	forward rapidly. The Commission	
published a Communication "Smart	published a Communication "Smart	published a Communication "Smart	
borders – options and the way ahead"	borders – options and the way ahead"	borders – options and the way ahead"	
on 25 October 2011.	on 25 October 2011.	on 25 October 2011.	
(5) The European Council in its	(5) The European Council in its $/$	(5) The European Council in its	
Strategic guidelines adopted in June	Strategic guidelines adopted in June	Strategic guidelines adopted in June	
2014 stressed that "the Schengen	2014 stressed that "the Schengen/	2014 stressed that the Schengen area,	[/ /
area, allowing people to travel	area, allowing people to travel	allowing people to travel without	
without internal border controls, and	without internal border controls, and	internal border controls, and the	
the increasing numbers of people	the increasing numbers of people	increasing numbers of people	
travelling to the EU require efficient	travelling to the EU require efficient	travelling to the EU require efficient	
management of the EU's common	management of the EU's common	management of the EU's common	
external borders to ensure strong	external borders to ensure strong	external borders to ensure strong	
protection. The Union must mobilise	protection. The Union must mobilise	protection. The Union must mobilise	
all the tools at its disposal to support	all the tools at its/disposal to support	all the tools at its disposal to support	
the Member States in their task. To	the Member States in their task. To	the Member States in their task. To	
this end: integrated Border	this end: integrated Border	this end, integrated Border	
Management of external borders	Management of external borders	Management of external borders	
should be modernised in a cost	should be modernised in a cost	should be modernised in a cost	
efficient way to ensure smart border	efficient way to ensure smart border	efficient way to ensure smart border	
management inter alia with an entry-	management inter alia with an entry-	management <i>inter alia</i> with an entry-	
exit system and supported by the new	<i>exit/system and supported by the new</i>	exit system and supported by the new	
agency for large-scale IT systems	agency for large-scale IT systems	agency for large-scale IT systems	
(eu-LISA)".	(eu-LISA)".	(eu-LISA).	
(6) The Communication of the	(6) The Communication of the	(6) The Communication of the	/
Commission of 13 May 2015 entitled	Commission of 13 May 2015 entitled	Commission of 13 May 2015 entitled	
"A European agenda on migration"	"A European agenda on migration"	"A European agenda on migration"	
noted that "a new phase would come	noted that "a new phase would come	noted that "a new phase would come	
with the "Smart Borders" initiative	with the "Smart Borders" initiative	with the "Smart Borders" initiative	
to increase the efficiency of border	to increase the efficiency of border	to increase the efficiency of border	
	v vv v v		
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crossings, facilitating crossings for the large majority of 'bona fide' third country travellers, whilst at the same time strengthening the fight against irregular migration by creating a record of all cross-border movements by third country nationals, fully respecting proportionality".	crossings, facilitating crossings for the large majority of 'bona fide' third country travellers, whilst at the same time strengthening the fight against irregular migration by creating a record of all cross-border movements by third country nationals, fully respecting proportionality".	crossings, facilitating crossings for the large majority of 'bona fide' third country travellers, whilst at the same time strengthening the fight against irregular migration by creating a record of all cross-border movements by third country nationals, fully respecting proportionality".	
	(6a) With a view to further		
	<i>improving the management of the external borders and, in particular,</i>		
	in order to verify the respect of the		
	provisions on an authorised period		
	of stay within the Schengen area, a		
	system which registers electronically		
	the time and place of entry and exit		
	of third-country nationals admitted		
	for a short stay to the Schengen area and which calculates the		
	duration of their authorised stay		
	should be established.		
(7) It is necessary to specify the	(7) It is necessary to specify the	(7) It is necessary to specify the	
objectives of the Entry/Exit System	objectives of the Entry/Exit System	objectives of the Entry/Exit System	
(EES) and its technical architecture,	(EES), and its technical architecture,	(EES) and its technical architecture,	
to lay down rules concerning its	to lay down rules concerning its	to lay down rules concerning its	
operation and use and to define	operation and use and to define	operation and use and to define	
responsibilities for the system, the	responsibilities for the system, the	responsibilities for the system, the	
categories of data to be entered into	categories of data to be entered into	categories of data to be entered into	
the system, the purposes for which	the system, the purposes for which	the system, the purposes for which	
the data are to be entered, the criteria	the data are to be entered, the criteria	the data are to be entered, the criteria	
for their entry, the authorities	for their entry, the authorities	for their entry, the authorities	
authorised to access the data and	authorised to access the data and,	authorised to access the data and	

further rules on data processing and the protection of personal data.	further rules on data processing and the protection of personal data <i>as</i> <i>well as the technical architecture of</i> <i>the system, rules concerning its</i> <i>operation and use and</i> <i>interoperability with other</i> <i>information systems. It is also</i> <i>necessary to define responsibilities</i> <i>for the system.</i>	further rules on data processing and the protection of personal data.	
			Provisionally agreed: (7a) It is desirable that Member States not yet applying the Schengen acquis in full, apply it fully by the start of the operation of the EES. However, in case where the lifting of controls at internal borders cannot be achieved by the start of the operation of the EES, it is necessary to specify the provisions on the deployment and use of the EES at internal borders where controls would have not yet been lifted.
(8) The EES should apply to third country nationals admitted for a	(8) The EES should apply to third country nationals admitted for a	(8) The EES should apply to third country nationals admitted for a	
short stay to the Schengen area. It	short stay to the Schengen area. It	short stay to the <u>territory of the</u>	
should also apply to third country	should also apply to third country	<u>Member States</u> []. It should also	
nationals whose entry for a short stay	nationals whose entry for a short stay	apply to third country nationals	
has been refused.	has been refused.	whose entry for a short stay has been	
		refused.	
		The EES should be deployed at the	
		external borders of the Member	
		States which apply the Schengen	

acquis in full as well as those that do
not yet apply the Schengen acquis in
full but for which the verification in
accordance with the applicable
Schengen evaluation procedure has
already been successfully completed
and to which passive access to the
Visa Information System (VIS) for
the purpose of operating the EES has
been granted. Moreover, the EES
should be deployed at all internal
borders of Member States operating
the EES where the controls have not
yet been lifted. However, specific
provisions with regard of the EES at
such borders should apply, justified
by reasons of economy of the process
of the checks on such borders, while
not affecting the level of security and
the correct functioning of the EES
and without prejudice to the other
border control obligations under
Regulation (EU) 2016/399.
8a. <u>The length of the authorised</u>
stay of third country nationals in the
territories of the Member States for
the purpose of this Regulation results
from the Schengen acquis applicable.
<u>8b.</u> <u>The calculator included in the</u>
EES should take into account stays in
the territory of the Member States
which operate the EES for the
calculation of the overall limit of 90

days in a 180-day period. Any	
extensions of authorised stay should	
be taken into account for the purpose	
of calculation of the overall limit of	
90 days in any 180-day period upon	
the subsequent entry of the third	
country national to the territory of	
the Member States.	
By derogation to the general rule set	
out in Article 6(1) of the Schengen	
Borders Code, pending their	
connection to the EES, stays in the	
territories of the Member States	
which do not operate the EES should	
be counted separately, on the basis of	
stamps affixed in the travel	
documents of third country nationals.	
8c. Stays in Member States	
which do not yet apply the Schengen	
acquis in full but operate the EES	
should only be taken into account by	
the calculator for the purposes of	
verifying compliance with the overall	
limit of 90 days in any 180-day	
period and for the purposes of	
verifying the period of validity of the	
visa.	
The calculator should not calculate	
the duration of stay as authorised by	
a national short stay visa issued by a	
Member State which does not yet	
apply the Schengen <i>acquis</i> in full but	
operates the EES.	
operates the ELS.	

	The calculator should not take into
	account stays in Member States
	which do not yet apply the Schengen
	acquis in full but operate the EES,
	when calculating the duration of stay
	authorised by a visa.
(8a) Precise rules should be laid	
down as regards the responsibilities	
for the development and operation	
of the EES and the responsibilities	
of the Member States for the	
connection to the EES. Member	
States should be able to use	
resources available through their	
national programmes under the	
Internal Security Fund for the	
• •	
development and operation of the	
EES at national level. The Agency	
for the operational management of	
large-scale information systems in	
the area of freedom, security and	
justice, established by Regulation	
(EU) No 1077/2011 of the European	
Parliament and of the Council ^{1a} ,	
should be responsible for the	
development and operational	
management of a centralised EES	
in accordance with this Regulation	
and the relevant provisions of	
Regulation (EU) No 1077/2011	
should be amended accordingly.	

1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large- scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p 1).(9) The EES should have the objective of improving the management of external borders, preventing irregular immigration and facilitating the management of migration flows. The EES should, in particular and when relevant, contribute to the identification of any person who does not or no longer fulfils the conditions of duration of stay within the territory of the Member States.(9) The objective of improving be to improve the management of external borders, preventing to prevent irregular immigration flows. The EES should, in particular and when relevant, contribute to the identification of any person who does not or no longer fulfils the conditions of duration of stay within the territory of the Member States.(9) The objective of improving be to improve the management of migration flows. The EES should, in particular and when relevant, contribute to the identification of any person who does not or no longer fulfils the conditions of duration of the authorised stay within the territory of the Member States. Additionally, the EES should contribute to the prevention, detection and investigation of terrorist offences and of other serious criminal offices.(9a) The EES should consist of a Central System, which operates a computerised central database of	(9) The EES should have the objective of improving the management of external borders, preventing irregular immigration and facilitating the management of migration flows. The EES should, in particular and when relevant, contribute to the identification of any person who does not or no longer fulfils the conditions of duration of <u>authorised</u> stay within the territory of the Member States.	
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	biometric and alphanumeric data, a	
	National Uniform Interface in each	
	Member State, a Secure	
	Communication Channel between	
t	the EES Central System and the	
	Central Visa Information System	
(VIS Central System) of the Visa	
	Information System (VIS),	
	established by Council Decision	
2	2004/512/EC ^{1a} , and the secure and	
E	encrypted Communication	
1	Infrastructure between the Central	
	System and the National Uniform	
	Interfaces. Each Member State	
S	should connect its national border	
i	infrastructures to the National	
1	Uniform Interface in a secure	
1	nanner. In order to enable third	
6	country nationals and carriers to	
1	verify at any moment the remaining	
6	authorised period of stay a web	
	service should be developed.	
	Relevant stakeholders should be	
6	consulted in the development phase	
6	of the web service.	
-		
	Council Decision	
	2004/512/EC of 8 June 2004	
	establishing the Visa Information	
	System (VIS) (OJ L 213, 15.6.2004,	
	•	
	<i>p.5</i>).	

(9b) Interoperability should be	
established between the EES and	
the VIS by way of a direct	
communication channel between	
the VIS Central System and the	
EES Central System to enable the	
border authorities using the EES to	
consult the VIS in order to retrieve	
visa-related data to create or update	
the individual file, to enable the	
border authorities to verify the	
validity of the visa and the identity	
of the visa holder by means of	
fingerprints directly against the VIS	
at the external borders and to	
enable the border authorities to	
verify the identity of visa exempt	
third country nationals against the	
VIS with fingerprints.	
Interoperability should also enable	
the border authorities using the VIS	
to directly consult the EES from the	
VIS for the purposes of examining	
visa applications and decisions	
relating to those applications and	
enabling visa authorities to update	
the visa-related data in the EES in	
the event that a visa is annulled,	
revoked or extended. Regulation	
(EC) No 767/2008 of the European	
Parliament and of the Council ^{1a}	

should be amended accordingly.	
^{1a} Regulation (EC) No	
767/2008 of the European	
Parliament and of the Council of 9	
July 2008 concerning the Visa	
Information System (VIS) and the	
exchange of data between Member	
States on short-stay visas (VIS	
Regulation) (OJ L 218, 13.8.2008,	
<i>p.60</i>).	
(9c) In order to structurally	
improve the Union's data	
management architecture for border	
control and security, the	
Commission's Communication of 6	
April 2016 entitled 'Stronger and	
Smarter Information Systems for	
Borders and Security' presented a	
process towards the interoperability	
of information systems. The High-	
level Expert Group on Information	
Systems and Interoperability, set up	
as announced in this	
Communication, is expected to	
present its results in the spring of	
2017. Those results might be	
relevant for the further development of the EES and, where this is the	
case, the Commission is invited to	
propose any appropriate measures concerning the EES.	

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	(9d) This Regulation should		
	define the authorities of the Member		
	States which may be authorised to		
	have access to the EES to enter,		
	amend, delete or consult data for the		
	specific purposes of the EES and to		
	the extent necessary for the		
	performance of their tasks.		
	(9e) Any processing of EES data		
	should be proportionate to the		
	objectives pursued and necessary		
	for the performance of the tasks of		
	the competent authorities. When		
	using the EES, the competent		
	authorities should ensure that the		
	human dignity and integrity of the		
	person whose data are requested,		
	are respected and should not		
	discriminate against persons on		
	grounds of sex, race, colour, ethnic		
	or social origin, genetic features,		
	language, religion or belief, political		
	or any other opinion, membership		
	of a national minority, property,		
	birth, disability, age or sexual		
	orientation.		
(10) To meet those objectives, the	(10) <i>The</i> To meet those objectives,	(10) To meet those objectives, the	
EES should process alphanumeric	the EES should collect and process	EES should process alphanumeric	
data and biometric data (fingerprints	alphanumeric data and biometric data	data and biometric data (fingerprints	
and facial image). The use of	(fingerprints and facial image)	and facial image). The use of	
biometrics, despite its impact on the	primarily for the purposes of	biometrics, despite its impact on the	
privacy of travellers, is justified for	improving the management of	privacy of travellers, is justified for	
two reasons. Firstly, biometrics are a	external borders, preventing	two reasons. Firstly, biometrics are a	

reliable method to identify third country nationals within the territory of the Member States not in possession of travel documents or any other means of identification, a common modus operandi of irregular migrants. Secondly, biometrics provide for the more reliable matching of entry and exit data of legal travellers. Where facial images are used in combination with fingerprint data, it allows for the reduction of fingerprints registered while enabling the same result in terms of accuracy of the identification.	<i>irregular immigration and</i> <i>facilitating the management of</i> <i>migration flows. Personal data</i> <i>collected in the EES may be further</i> <i>processed to contribute to the</i> <i>prevention, detection and</i> <i>investigation of terrorist offences</i> <i>and of other serious criminal offices</i> <i>only under the conditions laid down</i> <i>in this Regulation.</i> The use of biometrics, despite its impact on the privacy of travellers, is justified for two reasons. Firstly, biometrics are a reliable method to identify third <i>country nationals within the territory</i> <i>of the Member States not in</i> <i>possession of travel documents or</i> <i>any other means of identification, a</i> <i>common modus operandi of irregular</i> <i>migrants. Secondly, biometrics</i> <i>provide for the more reliable</i> <i>matching of entry and exit data of</i> <i>legal travellers. Where facial images</i> <i>are used in combination with</i> <i>fingerprint data, it allows for the</i> <i>reduction of fingerprints registered</i> <i>while enabling the same result in</i> <i>terms of accuracy of the</i> <i>identification.</i>	reliable method to identify third country nationals within the territory of the Member States not in possession of travel documents or any other means of identification, a common modus operandi of irregular migrants. Secondly, biometrics provide for the more reliable matching of entry and exit data of legal travellers. Where facial images are used in combination with fingerprint data, it allows for the reduction of fingerprints registered while enabling the same result in terms of accuracy of the identification.	
(11) Four fingerprints of visa	(11) Four fingerprints of visa	(11) Four fingerprints of visa	
exempt third country nationals	exempt third country nationals	exempt third country nationals	
should be enrolled in the EES, if	should be enrolled in the EES, if	should be enrolled in the EES, if	
physically possible, to allow for	physically possible, to allow for	physically possible, to allow for	

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with another travel document) and to	with another travel document) and to	
guarantee that sufficient data is	guarantee that sufficient data is	
available to achieve the objectives of	available in every circumstance. The	
the EES in every circumstance. The	check of the fingerprints of visa	
check of the fingerprints of visa	holders will be done against the Visa	
holders will be done against the VIS	Information System. (VIS)	
Visa Information System. (VIS)	established by Council Decision	
established by Council Decision	$2004/512/\text{EC}^4$. The facial image of	
$\frac{2004}{512}$ The facial image of	both visa exempt and visa holding	
both visa exempt and visa holding	third country nationals should be	
third country nationals should be	registered in the EES. Fingerprints	
registered in the EES and it should be	and facial image [] should be used	
used as the main biometric identifier	as the [] biometric identifier for	
for verifying the identity of third	verifying the identity of third country	
country nationals who have been	nationals who have been previously	
previously registered in the EES and	registered in the EES and for as long	
for as long as their individual file has	as their individual file has not been	
-	deleted. [] In order to take into	
verification should be performed	account the specificities of each	
using fingerprints.	border crossing point and the	
	different kind of borders, the national	
¹ ——Council Decision	authorities should define for each	
2004/512/EC of 8 June 2004	border crossing whether the	
establishing the Visa Information		
0	should be used as the main biometric	
	verifications.	
	available to achieve the objectives of the EES in every circumstance. The check of the fingerprints of visa holders will be done against the VIS Visa Information System. (VIS) established by Council Decision 2004/512/EC ⁴ . The facial image of both visa exempt and visa holding third country nationals should be registered in the EES and it should be used as the main biometric identifier for verifying the identity of third country nationals who have been previously registered in the EES and for as long as their individual file has not been deleted. Alternatively, that verification should be performed using fingerprints.	 identification (ensuring that the third country national is not already enrolled under another identity or with another travel document) and to guarantee that sufficient data is available to achieve the objectives of the EES in every circumstance. The check of the fingerprints of visa holders will be done against the VIS Visa Information System. (VIS) Visa Information System. (VIS) established by Council Decision 2004/512/EC⁴. The facial image of both visa exempt and visa holding third country nationals should be registered in the EES and it should be used as the main biometric identifier for verifying the identity of third country nationals who have been previously registered in the EES and for as long as their individual file has not been deleted. Alternatively, that verification should be performed using fingerprints. Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS) (OJ L 213, 15.6.2004, p5). identification (ensuring that the third country nationals who have been fingerprints or the facial image fingerprints. identification (ensuring that the third country nationals who have been previously registered in the EES and for as long as their individual file has not been deleted. Alternatively, that verification should be performed using fingerprints.

Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS) (OJ L 213, 15.6.2004, p.5).

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(12) The EES should consist of a	deleted	(12) The EES should consist of a
Central System, which will operate a		Central System, which will operate a
computerised central database of		computerised central database of
biometric and alphanumeric data, a		biometric and alphanumeric data, a
National Uniform Interface in each		National Uniform Interface in each
Member State, a Secure		Member State, a Secure
Communication Channel between the		Communication Channel between the
EES Central System and the VIS		EES Central System and the VIS
Central System and the		Central System and the
Communication Infrastructure		Communication Infrastructure
between the Central System and the		between the Central System and the
National Uniform Interfaces. Each		National Uniform Interfaces. Each
Member State should connect its		Member State should connect its
national border infrastructures to the		national [] infrastructures
National Uniform Interface.		necessary for border check to the
		National Uniform Interface.
(13) Interoperability should be	deleted	(13) Interoperability should be
established between the EES and the		established between the EES and the
VIS by way of a direct		VIS by way of a <u>n</u> <u>automatic</u> []
communication channel between the		communication channel between the
Central Systems to enable the border		Central Systems to enable the border
authorities using the EES to consult		check authorities using the EES to
the VIS in order to retrieve visa-		consult the VIS in order to retrieve
related data to create or update the		visa-related data to create or update
individual file; to enable the border		the entry/exit record or refusal of
authorities to verify the validity of		entry record []; to enable the
the visa and the identity of a visa		border <u>check</u> authorities to verify the
holder by means of fingerprints		validity of the visa and the identity of
directly against the VIS at the		a visa holder by means of
external borders and to enable the		fingerprints automatically []
border authorities to verify the		against the VIS at the [] borders <u>at</u>
identity of visa exempt third country		which the EES is operated and to
nationals against the VIS with		enable the border <u>check</u> authorities to

fingerprints. Interoperability should		verify the identity of visa exempt
also enable the border authorities		third country nationals against the
using the VIS to directly consult the		VIS with fingerprints.
EES from the VIS for the purposes of		Interoperability should also enable
examining visa applications and		the border <u>check and the visa</u>
decisions relating to those		authorities using the VIS to directly
applications and enable visa		consult the EES from the VIS for the
authorities to update the visa-related		purposes of examining visa
data in the EES in the event that a		applications and decisions relating to
visa is annulled, revoked or		those applications and [] to update
extended. Regulation (EC) No		the visa-related data in the EES in the
767/2008/EC of the European		event that a visa is annulled, revoked
Parliament and of the Council ⁵		or extended. Regulation (EC) No
should be amended accordingly.		767/2008/EC of the European
		Parliament and of the Council ⁵
		should be amended accordingly. The
		launch of the automated processes
		between the EES and the VIS should
		in each case be subject to a
		confirmation by the authority
		concerned.
(14) This Regulation should define	deleted	(14) This Regulation should define
the authorities of the Member States		the authorities of the Member States
which may be authorised to have		which may be authorised to have
access to the EES to enter, amend,		access to the EES to enter, amend,
delete or consult data for the specific		delete or consult data for the specific
purposes of the EES and to the extent		purposes of the EES and to the extent
necessary for the performance of		necessary for the performance of
their tasks.		their tasks.

⁵ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p.60).

(15) Any processing of EES data	deleted	(15) Any processing of EES data	
should be proportionate to the		should be proportionate to the	
objectives pursued and necessary for		objectives pursued and necessary for	
the performance of tasks of the		the performance of tasks of the	
competent authorities. When using		competent authorities. When using	
the EES, the competent authorities		the EES, the competent authorities	
should ensure that the human dignity		should ensure that the human dignity	
and integrity of the person, whose		and integrity of the person, whose	
data are requested, are respected and		data are requested, are respected and	
should not discriminate against		should not discriminate against	
persons on grounds of sex, colour,		persons on grounds of sex, colour,	
ethnic or social origin, genetic		ethnic or social origin, genetic	
features, language, religion or belief,		features, language, religion or belief,	
political or any other opinion,		political or any other opinion,	
membership of a national minority,		membership of a national minority,	
property, birth, disability, age or		property, birth, disability, age or	
sexual orientation.		sexual orientation.	
(16) In the fight against terrorist	(16) In the fight against terrorist	(16) In the fight against terrorist	
offences and other serious criminal	offences and other serious criminal	offences and other serious criminal	
offences, it is imperative that law	offences, it is imperative necessary	offences, it is imperative that	Inclusion of "limitations"
enforcement authorities have the	that <i>designated</i> law enforcement	designated [] authorities have the	provisionally agreed:
most up-to-date information if they	authorities have the most up-to-date	most up-to-date information if they	
are to perform their tasks. Access to	information if they are to perform	are to perform their tasks. Access to	Therefore, the data in the EES should
VIS data for law enforcement	their tasks. Access to VIS data for	VIS data for law enforcement	be available, to the designated
purpose has already proven its	law enforcement purpose has already	purpose has already proven its	authorities of the Member States and
usefulness in identifying people who	proven its usefulness in identifying	usefulness in identifying people who	the European Police Office
died violently or for helping	people who died violently or for	died violently or for helping	('Europol'), subject to the conditions
investigators to make substantial	helping investigators to make	investigators to make substantial	and limitations set out in this
progress in cases related to human	substantial progress in cases related	progress in cases related to human	Regulation.
being trafficking, terrorism or drug	to human being trafficking, terrorism	being trafficking, terrorism or drug	
trafficking. Access to the information	or drug trafficking. Access to the	trafficking. Access to the information	
contained in the EES is necessary to	information contained in the EES is	contained in the EES is necessary to	
prevent, detect and investigate	necessary to prevent, detect and	prevent, detect and investigate	

terrorist offences as referred to in	investigate temperat ofference of	terrorist offences as referred to in	
	investigate terrorist offences as		
Council Framework Decision	referred to in Council Framework	Council Framework Decision	
2002/475/JHA ⁶ or other serious	Decision 2002/475/JHA ⁶ or other	$2002/475/JHA^6$ or other serious	
criminal offences as referred to in	serious criminal offences as referred	criminal offences as referred to in	
Council Framework Decision	to in Council Framework Decision	Council Framework Decision	
2002/584/JHA ⁷ . The data generated	$2002/584/JHA^7$. The data generated	2002/584/JHA ⁷ . The data generated	
by the EES may be used as an	by the EES may be used as an	by the EES may be used as an	
identity verification tool both in	identity verification tool both in	identity verification tool both in	
cases where the third country	cases where the third country	cases where the third country	
national has destroyed his/her	national has destroyed his/her	national has destroyed his/her	
documents and where law	documents and where law	documents and where designated	
enforcement authorities are	enforcement authorities are	[] authorities are investigating a	
investigating a crime through the use	investigating a crime through the use	crime through the use of fingerprints	
of fingerprints or facial image and	of fingerprints or facial image and	or facial image and wish to establish	
wish to establish an identity. It may	wish to establish an identity. It may	an identity. It may also be used as a	
also be used as a criminal	also be used as a criminal	criminal intelligence tool to construct	
intelligence tool to construct	intelligence tool to construct	evidence by tracking the travel routes	
evidence by tracking the travel routes	evidence by tracking the travel routes	of a person suspected of having	
of a person suspected of having	of a person suspected of having	committed a crime or a victim of	
committed a crime or a victim of	committed a crime or a victim of	crime. Therefore, the data in the EES	
crime. Therefore, the data in the EES	crime. Therefore, the data in the EES	should be available, to the designated	
should be available, to the designated	should be available, to the designated	authorities of the Member States and	
authorities of the Member States and	authorities of the Member States and	the European Police Office	
the European Police Office	the European Police Office	('Europol'), subject to the conditions	
('Europol'), subject to the conditions	('Europol'), subject to the conditions	set out in this Regulation.	
set out in this Regulation.	set out in this Regulation. From the	The conditions of access to the EES	
	perspective of the law enforcement	for the purposes of the prevention,	
	purposes and in order to prevent,	detection or investigation of terrorist	
	detect and investigate terrorist	offences or of other serious criminal	

⁶ Council Framework Decision 2002/475/JHA of 13 June 2002 on combatting terrorism (OJ L 164, 22.6.2002 p.6).

⁷ Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member State (OJ L 190, 18.7.2002, p. 1).

	offences or other serious criminal offences a search of the database is proportionate if there is an overriding public security concern. Any search must be duly justified and proportionate in the light of the interest invoked.	offences should be such as to allow the law enforcement authorities of the Member States to tackle the cases of suspects using multiple identities. For this purpose obtaining a hit during a consultation of a relevant database prior to acceding the EES should not prevent such access.	
			Provisionally agreed: New recital 16a: Only designated authorities which are responsible for the prevention, detection or investigation of terrorist offences or other serious criminal offences for which Member States can guarantee that all provisions of this Regulation as well as those of Directive (EU) 2016/680 as transposed into national law apply and for which the correct application may be verified by the competent authorities including the supervisory authority established in accordance with Article 41(1) of Directive (EU) 2016/680 should be entitled to consult the data stored in the EES.
(17) Moreover, Europol plays a key role with respect to cooperation between Member States' authorities in the field of cross-border crime investigation in supporting Union- wide crime prevention, analyses and	(17) Moreover, Europol plays a key role with respect to cooperation between Member States' authorities in the field of cross-border crime investigation in supporting Union- wide crime prevention, analyses and	(17) Moreover, Europol plays a key role with respect to cooperation between Member States' authorities in the field of cross-border crime investigation in supporting Union- wide crime prevention, analyses and	

investigation. Consequently, Europol should also have access to the EES	investigation. Consequently, Europol should also have access to the EES	investigation. Consequently, Europol should also have access to the EES	
within the framework of its tasks and in accordance with Council Decision 2009/371/JHA. ⁸	within the framework of its tasks and in accordance with Council Decision 2009/371/JHA Regulation (EU)	within the framework of its tasks and in accordance with Council Decision 2009/371/JHA. ⁸	
	2016/794 of the European		
	Parliament and of the Council. ⁸ The		
	European Data Protection		
	Supervisor should monitor the		
	processing of data by Europol and		
	ensure full compliance with applicable data protection rules.		
	8 9 9		
	⁸ Council Decision		
	2009/371/JHA of 6 April 2009		
	establishing the European Police Office (Europol) (OJ L 121,		
	15.5.2009, p. 37). Regulation (EU)		
	2016/794 of the European		
	Parliament and of the Council 11		
	May 2016 on the European Union		
	Agency for Law Enforcement		
	Cooperation (Europol) and		
	replacing and repealing Council		
	Decisions 2009/371/JHA,		
	2009/934/JHA, 2009/935/JHA,		
	2009/936/JHA and 2009/968/JHA		
	(OJ L 135, 24.5.2016, p. 53).		
(18) Access to the EES for the	(18) Access to the EES for the	(18) Access to the EES for the	
purpose of preventing, detecting or	purpose of preventing, detecting or	purpose of preventing, detecting or	

Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol) (OJ L 121, 15.5.2009, p. 37).

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other serious criminal offencesother serious criminal offencesconstitutes an interference with the fundamental rights to respect for the protection of personal data of persons whose personal data of persons the ELS. Any such interference must be in accordance with the law, which must be formulated with sufficient precision to allow individuals to adjust their conduct and it must protection conferred on the competent authorities and the manner of its exercise. Any interference must be in accordance with the law, which must be formulated with sufficient precision to allow individuals to adjust their conduct and it must protection of personal data are processed in the ELS. Any such interference must be in accordance with the such protection of personal data are processed in the ELS. Any such interference must be in accordance with the fundamental rights to respect for the protection of personal data of persons whose personal data are processed in the ELS. Any such interference must be in accordance with the fundamental rights to respect for the such interference must be in accordance with the fundamental rights to respect for the such interference must be in accordance with the fundamental rights to respect for the such interference must be in accordance with the fundamental rights to respect for the such interference must be in accordance with the fundamental rights to respect for the such it must protection of personal data of persons discretion conferred on the competent authorities and the manner of its exercise. Any interference must be necessary in a democratic society to protect a legitimate and proportionate interest and		1		1
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to protect a legitimate and proportionate interest and proportionate to the legitimate objective to achieve.to protect a legitimate and proportionate interest and proportionate to the legitimate objective to achieve.to protect a legitimate and proportionate interest and proportionate to the legitimate objective to achieve.(19)Comparisons of data on the basis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the(19)Comparisons of data on the basis of a latent fingerprint with the fingerprint data which is stored in the	of its exercise. Any interference must	of its exercise. Any interference must	of its exercise. Any interference must	
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objective to achieve.objective to achieve.objective to achieve.(19)Comparisons of data on the basis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the(19)Comparisons of data on the basis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the(19)Comparisons of data on the basis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the(19)Comparisons of data on the basis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the(19)Comparisons of data on the basis of a latent fingerprint with the fingerprint data which is stored in the	proportionate interest and	proportionate interest and	proportionate interest and	
(19)Comparisons of data on the basis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the(19)Comparisons of data on the (19)(19)(19)Comparisons of data on the basis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the(19)Comparisons of data on the basis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the(19)Comparisons of data on the basis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the(19)Comparisons of data on the basis of a latent fingerprint data which is stored in the	proportionate to the legitimate	proportionate to the legitimate	proportionate to the legitimate	
basis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, isbasis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, isbasis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, isfundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thebasis of a latent fingerprint with the fingerprint data which is stored in thebasis of a latent fingerprint, which is the dactyloscopic trace which may be found at a crime scene, is	objective to achieve.	objective to achieve.	objective to achieve.	
the dactyloscopic trace which may be found at a crime scene, isthe dactyloscopic trace which may be found at a crime scene, isthe dactyloscopic trace which may be found at a crime scene, isfundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thethe dactyloscopic trace which may be found at a crime scene, isthe dactyloscopic trace which may be found at a crime scene, isfundamental in the field of police cooperation. The possibility to fingerprint data which is stored in thefundamental in the field of police cooperation. The possibility to fingerprint data which is stored in thefundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thefundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thefundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the	(19) Comparisons of data on the	(19) Comparisons of data on the	(19) Comparisons of data on the	
found at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thefound at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thefound at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thefound at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thefound at a crime scene, is fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the	basis of a latent fingerprint, which is	basis of a latent fingerprint, which is	basis of a latent fingerprint, which is	
fundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thefundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thefundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thefundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thefundamental in the field of police cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the	the dactyloscopic trace which may be	the dactyloscopic trace which may be	the dactyloscopic trace which may be	
cooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thecooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in thecooperation. The possibility to compare a latent fingerprint with the fingerprint data which is stored in the	found at a crime scene, is	,	,	
compare a latent fingerprint with the fingerprint data which is stored in thecompare a latent fingerprint with the fingerprint data which is stored in thecompare a latent fingerprint with the fingerprint data which is stored in the	fundamental in the field of police	fundamental in the field of police	fundamental in the field of police	
fingerprint data which is stored in the fingerprint data which is stored in the fingerprint data which is stored in the		,		
	compare a latent fingerprint with the	compare a latent fingerprint with the	compare a latent fingerprint with the	
EES in appage where there are	fingerprint data which is stored in the	fingerprint data which is stored in the	fingerprint data which is stored in the	
EES III cases where there are EES III cases where there are EES III cases where there are	EES in cases where there are	EES in cases where there are	EES in cases where there are	
reasonable grounds for believing that reasonable grounds for believing that reasonable grounds for believing that	reasonable grounds for believing that	reasonable grounds for believing that	reasonable grounds for believing that	

41	41	41	
the perpetrator or victim may be	the perpetrator or victim may be	the perpetrator or victim may be	
registered in the EES should provide	registered in the EES is necessary	registered in the EES should provide	
the law enforcement authorities of	for should provide the law	the <u>designated []</u> authorities of the	
the Member States with a very	enforcement authorities of the	Member States with a very valuable	
valuable tool in preventing, detecting	Member States to prevent, detect or	tool in preventing, detecting or	
or investigating terrorist offences or	investigate with a very valuable tool	investigating terrorist offences or	
other serious criminal offences, when	in preventing, detecting or	other serious criminal offences, when	
for example the only evidence at a	investigating terrorist offences or	for example the only evidence at a	
crime scene are latent fingerprints.	other serious criminal offences, when	crime scene are latent fingerprints.	
	for example the only evidence at a		
	crime scene are latent fingerprints.		
(20) It is necessary to designate	(20) It is necessary to designate	(20) It is necessary to designate	
the competent authorities of the	the competent authorities of the	the competent authorities of the	
Member States as well as the central	Member States as well as the central	Member States as well as the central	
access point through which the	access point through which the	access point through which the	
requests for access to EES data are	requests for access to EES data are	requests for access to EES data are	
made and to keep a list of the	made and to keep a list of the	made and to keep a list of the	
operating units within the designated	operating units within the designated	operating units within the designated	
authorities that are authorised to	authorities that are authorised to	authorities that are authorised to	
request such access for the specific	request such access for the specific	request such access for the specific	
purposes for the prevention,	purposes for the prevention,	purposes for the prevention,	
detection or investigation of terrorist	detection or investigation of terrorist	detection or investigation of terrorist	
offences or of other serious criminal	offences or of other serious criminal	offences or of other serious criminal	
offences.	offences.	offences.	
(21) Requests for access to data	(21) Requests for access to data	(21) Requests for access to data	
stored in the Central System should	stored in the Central System should	stored in the Central System should	
be made by the operating units	be made by the operating units	be made by the operating units	
within the designated authorities to	within the designated authorities to	within the designated authorities to	
the central access point and should	the central access point and should	the central access point and should	
be justified. The operating units	be justified. The operating units	be justified. The operating units	
within the designated authorities that	within the designated authorities that	within the designated authorities that	
are authorised to request access to	are authorised to request access to	are authorised to request access to	
EES data should not act as a	EES data should not act as a	EES data should not act as a	

	1	4	
verifying authority. The central	verifying authority. The central	verifying authority. The central	
access points should act	access points should act	access point should be a body or	
independently of the designated	independently of the designated /	entity entrusted by national law to	
authorities and should be responsible	authorities and should be responsible	exercise public authority and be	
for ensuring, in an independent	for ensuring, in an independent	capable, through the quality and the	
manner, strict compliance with the	manner, strict compliance with the	quantity of its staffing, to effectively	
conditions for access as established	conditions for access as established	verify that the conditions to request	
in this Regulation. In exceptional	in this Regulation. In exceptional	access to the EES are fulfilled in the	
cases of urgency, where early access	cases of urgency, where early access	concrete case at hand. The central	
is necessary to respond to a specific	is necessary to respond to a specific	access points should act	
and actual threat related to terrorist	and actual threat related to terrorist	independently of the designated	
offences or other serious criminal	offences or other serious criminal	authorities and should be responsible	
offences, the central access point	offences, the central access point	for ensuring, in an independent	
should be able to process the request	should be able to process the request	manner, strict compliance with the	
immediately and only carry out the	immediately and only carry out the	conditions for access as established	
verification afterwards.	verification afterwards.	in this Regulation. [] Where early	
		access is necessary to respond to a	
		specific and actual threat related to	
		terrorist offences or other serious	
		criminal offences, the central access	
		point should be able to process the	
		request immediately and only carry	
		out the verification afterwards.	
(22) To protect personal data and	(22) To protect personal data and	(22) To protect personal data and	/
to exclude systematic searches, the	to exclude systematic searches, the	to exclude systematic searches, the	
processing of EES data should only	processing of EES data should only	processing of EES data should only	
take place in specific cases and when	take place in specific cases and when	take place in specific cases and when	
it is necessary for the purposes of	it is necessary for the purposes of	it is necessary for the purposes of	
preventing, detecting or investigating	preventing, detecting or investigating	preventing, detecting or investigating	
terrorist offences or other serious	terrorist offences or other serious	terrorist offences or other serious	
criminal offences. The designated	criminal offences. The designated	criminal offences. The designated	
authorities and Europol should only	authorities and Europol should only	authorities and Europol should only	
request access to the EES when they	request access to the EES when they	request access to the EES when they	
request decess to the EES when they	request access to the LLS when they	request decess to the LLS when they	
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have reasonable grounds to believe	have reasonable grounds to believe	have reasonable grounds to believe	
that such access will provide	that such access will provide	that such access will provide	
information that will substantially	information that will substantially	information that will substantially	
assist them in preventing, detecting	assist them in preventing, detecting	assist them in preventing, detecting	
or investigating a terrorist offence or	or investigating a terrorist offence or	or investigating a terrorist offence or	
other serious criminal offence.	other serious criminal offence.	other serious criminal offence.	
(23) In addition, access to the EES	(23) In addition, access to the EES	(23) []	
for identification of unknown	for identification of unknown		
suspects, perpetrators or victims of	suspects, perpetrators or victims of		
terrorist offences or other serious	terrorist offences or other serious		
criminal offences should be allowed	criminal offences should be allowed		
only on the condition that searches	only on the condition that searches		
with the national fingerprint	with the national finger print		
databases of the Member State and	databases of the Member State and		
with the automated fingerprinting	with the automated fingerprinting		
identification systems of all other	identification systems of all other		
Member States under Council	Member States under Council		
Decision 2008/615/JHA ⁹ did not lead	Decision 2008/615/JHA ⁹ did not lead		
to the establishment of the identity of	to the establishment of the identity of		
the data subject Furthermore, access	the data subject Furthermore, access		
to the EES to consult the entry/exit	to the EES to consult the entry/exit		
records of a known person should be	records of a known person should be		
duly justified.	duly justified.		
(24) For the purpose of efficient	(24) For the purpose of efficient	(24) For the purpose of efficient	
comparison and exchange of	comparison and exchange of	comparison and exchange of	
personal data, Member States should	personal data, Member States should	personal data, Member States should	
fully implement and make use of the	fully implement and make use of the	fully implement and make use of the	
existing international agreements as	existing international agreements as	existing international agreements as	
well as of Union law concerning the	well as of Union law concerning the	well as of Union law concerning the	
exchange of personal data already in	exchange of personal data already in	exchange of personal data already in	

⁹ Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 1).

force, in particular of Decision	force, in particular of Decision	force, in particular of Decision	
2008/615/JHA.	2008/615/JHA.	2008/615/JHA.	
	(24a) Member States should		
	ensure that border guards have		
	access to Interpol's Stolen and Lost		
	Travel Documents database, and the		
	relevant national and Union		
	databases. They should also ensure		
	that border guards make full use of		
	their right to access those databases		
	when registering travellers from		
	third countries entering or exiting		
	the territory of the Union.		
(25) The personal data stored in	(25) The personal data stored in	(25) The personal data stored in	
the EES should be kept for no longer	the EES should be kept for no longer	the EES should be kept for no longer	
than is necessary for the purposes of	than <i>strictly</i> necessary for the	than is necessary for the purposes of	
the EES. It is appropriate to keep the	purposes for which the data are	the EES. It is appropriate to keep the	
data related to third country nationals	processed of the EES. It is	data related to third country nationals	
for a period of five years for border	appropriate sufficient to keep the	for a period of five years for border	
management purposes in order to	data related to third country nationals	management purposes in order to	
avoid the need for third country	who have lawfully used the EES	avoid the need for third country	
nationals to re-enrol in the EES	and for third-country nationals	nationals to re-enrol in the EES	
before that period has lapsed. For	whose entry for a short stay {or on	before that period has lapsed. For	
third country nationals who are	the basis of a touring visa} has been	third country nationals who are	
family members of a Union citizen to	<i>refused</i> for a period of five <i>two</i> years	family members of a Union citizen to	
whom Directive 2004/38/EC ¹⁰	for border management purposes in	whom Directive 2004/38/EC ¹⁰	
applies or of a national of a third	order to avoid the need for third	applies or of a national of a third	
country enjoying the right of free	country nationals to re-enrol in the	country enjoying the right of free	

¹⁰ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

movement under Union law and who	EES before that period has lapsed.	movement under Union law and who	
do not hold a residence card referred	The two-year data retention period	do not hold a residence card referred	
to under Directive 2004/38/EC, it is	will reduce the frequency of re-	to under Directive 2004/38/EC, it is	
appropriate to store each coupled	enrolments and will be beneficial	appropriate to store each coupled	
entry/ exit reccord for a maximum	for all travellers as both the average	entry/exit record for a maximum	
period of one year after the last exit.	border crossing time and the waiting	period of one year after the last exit.	
	time at border crossing points will	If there is no exit record the data	
	decrease. Even for a traveller	shall be stored for a period of five	
	entering only once in the Schengen	years from the last entry record.	
	area, the fact that other travellers		
	already registered in the EES do		
	not have to re-enrol before the		
	expiry of this two-year period will		
	reduce the waiting time at the		
	border crossing point. This two-year		
	data retention period is also		
	necessary to facilitate border		
	crossings by using process		
	accelerators and self-service		
	<i>systems.</i> For third country nationals		
	who are family members of a Union		
	citizen to whom Directive		
	$2004/38/\text{EC}^{10}$ applies or of a national		
	of a third country enjoying the right		
	of free movement under Union law		
	and who do not hold a residence card		
	referred to under Directive		
	2004/38/EC, it is appropriate to store		
	each coupled entry/exit record		
	<i>record</i> for a maximum period of one		
	year after the last exit. <i>Following the</i>		
	expiry of the relevant data retention		
	periods the data should be		

	automatically erased.		
	¹⁰ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC,		
	90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).		
	(25a) A retention period of four years is necessary for data on third- country nationals who have not exited the territory of the Member States within the authorised period of stay in order to support the identification and return process. The data should be automatically erased after the period of four years, unless there are grounds to delete it earlier.		
(26) A five year data retention period is necessary to allow the border guard performing the necessary risk analysis requested by the Schengen Borders Code before	(26) A five two year data retention period is for the personal data of third-country nationals who have lawfully used the EES and of third- country nationals whose entry for a	(26) A five year data retention period is necessary to allow the border guard performing the necessary risk analysis requested by the Schengen Borders Code before	
authorising a traveller entering the Schengen area. The processing of	short stay {or on the basis of a touring visa} has been refused and a	authorising a traveller entering the <u>territory of Member States</u> []. The	

visa application in consular posts	four year data retention period for	processing of visa application in	
requires also analysing the travel	the personal data of third country	consular posts requires also	
history of the applicant to assess the	nationals who have not exited the	analysing the travel history of the	
use of previous visas and the respect	territory of the Member States	applicant to assess the use of	
of the conditions of stay. The	within the authorised period of stay	previous visas and the respect of the	
abandoning of passport stamping will	<i>are</i> necessary to allow the border	conditions of authorised stay. The	
be compensated by a consultation of	guard performing to perform the	abandoning of passport stamping will	
the EES. The travel history available	necessary risk analysis requested by	be compensated by a consultation of	
in the system should therefore cover	the Schengen Borders Code before	the EES. The travel history available	
a period of time which is sufficient	authorising a traveller entering to	in the system should therefore cover	
for the purpose of visa issuance. The	enter the Schengen area. The	a period of time which is sufficient	
five year data retention period will	processing of visa application	for the purpose of visa issuance. The	
reduce the re-enrolment frequency	applications in consular posts also	five year data retention period will	
and will be beneficial for all	requires also analysing the travel	reduce the re-enrolment frequency	
travellers as the average border	history of the applicant to assess the	and will be beneficial for all	
crossing time will decrease as will do	use of previous visas and the respect	travellers as the average border	
the waiting time at border crossing	of whether the conditions of stay	crossing time will decrease as will do	
points. Even for a traveller entering	have been respected. The	the waiting time at border crossing	
only once in the Schengen area, the	abandoning of passport stamping will	points. Even for a traveller entering	
fact that other travellers being	be compensated by a consultation of	only once in the territory of Member	
already registered in the EES will not	the EES. The travel history available	States [], the fact that other	
have to re-enrol will reduce the	in the system should therefore cover	travellers being already registered in	
waiting time at border. This data	a period of time which is sufficient	the EES will not have to re-enrol will	
retention period will also be	for the purpose of visa issuance.	reduce the waiting time at border.	
necessary to allow for facilitation for	The five year data retention period	This data retention period will also	
the border crossing by using process	will reduce the re-enrolment	be necessary to allow for facilitation	
accelerators and self-service systems.	frequency and will be beneficial for	for the border crossing by using	
Such facilitation is dependent of the	all travellers as the average border	process accelerators and self-service	
data registered in the system. A	crossing time will decrease as will do	systems. Such facilitation is	
shorter data retention period would	the waiting time at border crossing	dependent of the data registered in	
have a negative impact on the	points. Even for a traveller entering	the system. A shorter data retention	
duration of border controls. A shorter	only once in the Schengen area, the	period would have a negative impact	
data retention period would also	fact that other travellers being	on the duration of border checks	

noduce the group of travellars that	almondy magistaned in the EEC will not	[]] A shorten date retention new -1	
reduce the group of travellers that	already registered in the EES will not	[]. A shorter data retention period	
can benefit of such facilitation and	have to re-enrol will reduce the	would also reduce the group of	
thereby undermine the stated	waiting time at border. This data	travellers that can benefit of such	
objective of EES to facilitate border	retention period will also be	facilitation and thereby undermine	
crossing.	necessary to allow for facilitation for	the stated objective of EES to	
	the border crossing by using process	facilitate border crossing.	
	accelerators and self-service systems.		
	Such facilitation is dependent of the		
	data registered in the system. A		
	shorter data retention period would		
	have a negative impact on the		
	duration of border controls. A shorter		
	data retention period would also		
	reduce the group of travellers that		
	can benefit of such facilitation and		
	thereby undermine the stated		
	objective of EES to facilitate border		
	crossing. While performing the risk		
	analysis at the border and while		
	processing a visa application, the		
	travel history of third-country		
	nationals should be checked in		
	order to determine whether they		
	have exceeded the maximum		
	duration of their authorised stay in		
	the past. It is thus necessary to		
	retain the personal data of third-		
	country nationals who have not		
	exited the territory of the Member		
	States within the authorised period		
	of stay for the longer period of four		
	years compared to that for the		
	personal data of the third-country		
	personal data of the intra-country		

	nationals who have lawfully used the system and of third-country nationals whose entry for a short stay {or on the basis of a touring visa} has been refused.		
(27) The same retention period of	deleted	(27) The same retention period of	
five years would be necessary for		five years would be necessary for	
data on persons who have not exited		data on persons who have not exited	
the territory of the Member States		the territory of the Member States	
within the authorised period of stay		within the authorised [] stay in	
in order to support the identification		order to support the identification	
and return process and for persons		and return process and for persons	
whose entry for a short stay {or on		whose entry for a short stay [or on	
the basis of a touring visa} has been		the basis of a touring visa] has been	
refused. The data should be deleted		refused. The data should be deleted	
after the period of five years, unless		after the period of five years, unless	
there are grounds to delete it earlier.		there are grounds to delete it earlier.	
(28) Precise rules should be laid	deleted	(28) Precise rules should be laid	
down as regards the responsibilities		down as regards the responsibilities	
for the development and operation of		for the development and operation of	
the EES and the responsibilities of		the EES and the responsibilities of	
the Member States for the connection		the Member States for the connection	
to the EES. The Agency for the		to the EES. The Agency for the	
operational management of large-		operational management of large-	
scale information systems in the area		scale information systems in the area	
of freedom, security and justice,		of freedom, security and justice,	
established by Regulation (EU) No		established by Regulation (EU) No	
1077/2011 of the European		1077/2011 of the European	
Parliament and of the Council ¹¹ ,		Parliament and of the Council ¹¹ ,	
should be responsible for the		should be responsible for the	

¹¹ Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p 1).

development and operational management of a centralised EES in		development and operational management of a centralised EES in	
accordance with this Regulation and		accordance with this Regulation and	
the relevant provisions of Regulation		the relevant provisions of Regulation	
(EU) No 1077/2011 should be		(EU) No 1077/2011 should be	
amended accordingly.		amended accordingly.	
(29) Rules on the liability of the	(29) Rules on the liability of the	(29) Rules on the liability of the	
Member States in respect to damage	Member States in respect to damage	Member States in respect to damage	
arising from any breach of this	arising from any breach of this	arising from any breach of this	
Regulation should be laid down.	Regulation should be laid down.	Regulation should be laid down.	
(30) Directive 95/46/EC of the	(30) Regulation (EU) 2016/679	(30) Directive 95/46/EC of the	
European Parliament and of the	Directive 95/46/EC of the European	European Parliament and of the	
Council ¹² applies to the processing of	Parliament and of the Council ¹²	Council ¹² applies to the processing of	
personal data by the Member States	applies to the processing of personal	personal data by the Member States	
in application of this Regulation	data by the Member States in	in application of this Regulation	
unless such processing is carried out	application of this Regulation unless	unless such processing is carried out	
by the designated or verifying	such processing is carried out by the	by the designated or verifying	
authorities of the Member States for	designated or verifying authorities of	authorities of the Member States for	
the purposes of the prevention,	the Member States for the purposes	the purposes of the prevention,	
detection or investigation of terrorist	of the prevention, <i>investigation</i> ,	detection or investigation of terrorist	
offences or of other serious criminal	detection or investigation	offences or of other serious criminal	
offences.	<i>prosecution</i> of terrorist offences or	offences.	
	of other serious criminal offences.		
	¹² Directive 95/46/EC of the		
	European Parliament and of the		
	Council of 24 October 1995 on the		
	protection of individuals with regard		
	to the processing of personal data		

¹² Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

	and on the free movement of such data Regulation (EU) 2016/679 of 27 April 2016 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 281-119, 23.11.1995-4.5.2016, p. 31-1).		
		<u>30a.</u> Without prejudice of more specific rules laid down in this Regulation, for the processing of personal data, Directive 95/46/EC, Framework Decision 2008/977/JHA and Regulation (EC) No. 45/2001 apply according to their material scope.	
(31) The processing of personal data by the authorities of the Member States for the purposes of the prevention, detection or investigation of terrorist offences or of other serious criminal offences pursuant to this Regulation should be subject to a standard of protection of personal data under their national law which	(31) The processing of personal data by the authorities of the Member States for the purposes of the prevention, detection or investigation of terrorist offences or of other serious criminal offences pursuant to this Regulation should be subject to a standard of protection of personal data under their national law which	 (31) The processing of personal data by the authorities of the Member States for the purposes of the prevention, detection or investigation of terrorist offences or of other serious criminal offences pursuant to this Regulation should be subject to a standard of protection of personal data under their national law which 	

complies with Council Framework Decision 2008/977/JHA ¹³ .	complies with Council Framework Decision 2008/977/JHAThe national laws, regulations and administrative provisions adopted pursuant to Directive (EU) 2016/680 of the European Parliament and of 	complies with Council Framework Decision 2008/977/JHA ¹³ .	
	60). Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for		

¹³ Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial co-operation in criminal matters (OJ L 350, 30.12.2008, p. 60).

invest prosec the ex and o data, Fram	prposes of the prevention, igation, detection or cution of criminal offences or ecution of criminal penalties, n the free movement of such and repealing Council ework Decision 2008/977/JHA 119, 4.5.2016, p. 89).		
		<u>31a</u> In accordance with Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union, information contained in the EES can be provided to Member States not operating the EES, and to Member States to which this Regulation does not apply, by the competent authorities of the Member States whose designated authorities have access to the EES pursuant to this Decision. Such provision of information should be subject to a duly motivated request, and limited to where it is necessary for the prevention, detection or investigation of a terrorist offance or another	
		of a terrorist offence or another serious criminal offence. A Member State that operates the EES may only provide such information if a reciprocal provision of any	

(32) Personal data obtained by Member States pursuant to this Regulation should not be transferred or made available to a third country, an international organisation or any private party established in or outside the Union except if necessary in individual cases in order to assist the identification of a third country national in relation to his/her return and subject to strict conditions.	(32) Personal data obtained by Member States pursuant to this Regulation should not be transferred or made available to a third country, an international organisation or any private party established in or outside the Union except if necessary in individual cases in order to assist the identification of a third country national in relation to his/her return and subject to strict conditions	information on entry/exit records held by the requesting Member State to the Member States operating the EES is ensured. Framework Decision 2008/977/JHA applies to all the subsequent treatment of data obtained from the EES. (32) Personal data obtained by Member States pursuant to this Regulation should not be transferred or made available to a third country, an international organisation or any private party established in or outside the Union except if necessary in individual cases in order to assist the identification of a third country national in relation to his/her return and subject to strict conditions <u>or in</u> an exceptional case of urgency, where there is an immediate and <u>serious threat of a terrorist offence or</u> other serious criminal offences and in accordance with Framework Decision 2008/977/JHA. With regard to the rules on transfer of data, the return of overstayers should be regarded as an important public interest. Such data should only be transferred to a third country if the reciprocal provision of any information on entry/exit records held by the requesting third country to the Member States operating the	Compromise proposal: (32) Personal data obtained by Member States pursuant to this Regulation should not be transferred or made available to a third country, an international organisation or any private party established in or outside the Union except if necessary in individual cases in order to assist the identification of a third country national in relation to his/her return and subject to strict conditions <u>or in an exceptional case of</u> urgency, where there is an <u>immediate</u> and serious threat of imminent danger associated with a terrorist offence or an imminent danger for the physical integrity or the life of a person and this danger is associated with another serious criminal offences and as defined in accordance with Framework Decision 2008/977/JHA. With regard to the rules on transfer of data, the return of overstayers should be regarded as an important public interest. In the absence of an adequacy decision pursuant to Article 45(3) of
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	EES is ensured.	the GDPR or of appropriate
		safeguards pursuant to Article 46 of
		the GDPR, personal data of third
		country nationals stored in the EES
		can only <i>exceptionally</i> be transferred
		<u>to a third country or to an</u>
		<u>international organisation,</u> only <u>if it is</u>
		necessary for important reasons of
		public interest as referred to in Art.
		49(1)(d) of GDPR the protection of
		public security and if the transfer concerns only a limited number of
		persons. Such data should only be
		transferred to a third country if the
		reciprocal provision of any information
		on entry/exit records held by the
		requesting third country to the Member
		States operating the EES is ensured.
	<u>32a.</u> The transfer of data to a third	
	country, to a Member State not	
	operating the EES, or to a Member	
	State to which this Regulation does	
	not apply, and which is authorised in	
	a exceptional case of urgency, where	
	there is an immediate and serious	
	threat of a terrorist offence or other	
	serious criminal offence should be	
	carried out in accordance with the	
	applicable conditions set under	
	Directive (EU) 2016/680 ^{13a} once this	
	Directive would became applicable.	

^{13a} Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016).

	/		
(33) Regulation (EC) No 45/2001	(33) Regulation (EC) No 45/2001	(33) Regulation (EC) No 45/2001	
of the European Parliament and the	of the European Parliament and the	of the European Parliament and the	
Council ¹⁴ applies to the activities of	Council ¹⁴ applies to the activities of	Council ¹⁴ applies to the activities of	
the Union institutions or bodies when	the Union institutions or bodies when	the Union institutions or bodies when	
carrying out their tasks as responsible	carrying out their tasks as responsible	carrying out their tasks as responsible	
for the operational management of	for the operational management of	for the operational management of	
EES.	EES.	EES.	
(34) The independent supervisory	(34) The independent supervisory	(34) The independent supervisory	
authorities established in accordance	authorities established in accordance	authorities established in accordance	
with Article 28 of Directive	with Article 28 51 of Directive	with Article 28 of Directive	
95/46/EC should monitor the	95/46/EC Regulation (EU) 2016/679	95/46/EC should monitor the	
lawfulness of the processing of	should monitor the lawfulness of the	lawfulness of the processing of	
personal data by the Member States,	processing of personal data by the	personal data by the Member States,	
whilst the European Data Protection	Member States, whilst the European	whilst the European Data Protection	
Supervisor as established by	Data Protection Supervisor as	Supervisor as established by	
Regulation (EC) No 45/2001 should	established by Regulation (EC) No	Regulation (EC) No 45/2001 should	
monitor the activities of the Union	45/2001 should monitor the activities	monitor the activities of the Union	
institutions and bodies in relation to	of the Union institutions and bodies	institutions and bodies in relation to	
the processing of personal data. The	in relation to the processing of	the processing of personal data. The	
European Data Protection Supervisor	personal data. The European Data	European Data Protection	
and the supervisory authorities	Protection Supervisor and the	Supervisor, and the supervisory	
should cooperate with each other in	supervisory authorities should	authorities should cooperate with	
the monitoring of the EES.	cooperate with each other in the	each other in the monitoring of the	
	monitoring of the EES.	EES.	

¹⁴ Regulation (EC) No 45/2001 of the European Parliament and the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

(35) National supervisory authorities established in accordance with Article 25 of Council Framework Decision 2008/977/JHA should monitor the lawfulness of the processing of personal data for law enforcement purposes by the Member States, and the national supervisory authorities established in accordance with Article 33 of Decision 2009/371/JHA should monitor the lawfulness of data processing activities performed by Europol.	(35) National supervisory authorities established in accordance with Article 25 41 of Council Framework Decision 2008/977/JHA Directive (EU) 2016/680 should monitor the lawfulness of the processing of personal data for law enforcement purposes by the Member States, and the national supervisory authorities established in accordance with Article 33 of Decision 2009/371/JHA should monitor the lawfulness of data processing activities performed by	(35) National supervisory authorities established in accordance with Article 25 of Council Framework Decision 2008/977/JHA should monitor the lawfulness of the processing of personal data for law enforcement purposes by the Member States, and the national supervisory authorities established in accordance with Article 33 of Decision 2009/371/JHA should monitor the lawfulness of data processing activities performed by Europol.	
	Europol.		
(36) "() The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on	(36) "() The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on21 September 2016.	(36) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on <u>21</u> September 2016.	
(37) The proposal establishes strict access rules to the EES system and the necessary safeguards. It also sets out the individuals' rights of access, correction, deletion and redress, in particular the right to a judicial remedy and the supervision of processing operations by public independent authorities. This Regulation therefore respects the fundamental rights and observes the principles recognised by the Charter	1	(37) The proposal establishes strict access rules to the EES system and the necessary safeguards. It also sets out the individuals' rights of access, correction, deletion and redress, in particular the right to a judicial remedy and the supervision of processing operations by public independent authorities. This Regulation therefore respects the fundamental rights and observes the principles recognised by the Charter	

of Free down what Distance of the	and a state of the state of the Class	- f Erry damental Dialta - f the	
of Fundamental Rights of the	principles recognised by the Charter	of Fundamental Rights of the	
European Union, in particular the	of Fundamental Rights of the	European Union, in particular the	
right to dignity (Article 1 of the	European Union, in particular the	right to dignity (Article 1 of the	
Charter); the prohibition of slavery	right to dignity (Article 1 of the	Charter); the prohibition of slavery	
and forced labour (Article 5 of the	Charter); the prohibition of slavery	and forced labour (Article 5 of the	
Charter); the right to liberty and	and forced labour (Article 5 of the	Charter); the right to liberty and	
security (Article 6 of the Charter),	Charter); the right to liberty and	security (Article 6 of the Charter),	
respect for private and family life	security (Article 6 of the Charter),	respect for private and family life	
(Article 7 of the Charter), the	respect for private and family life	(Article 7 of the Charter), the	
protection of personal data (Article 8	(Article 7 of the Charter), the	protection of personal data (Article 8	
of the Charter), the right to non-	protection of personal data (Article 8	of the Charter), the right to non-	
discrimination (Article 21 of the	of the Charter), the right to non-	discrimination (Article 21 of the	
Charter), the rights of the child	discrimination (Article 21 of the	Charter), the rights of the child	
(Article 24 of the Charter), the rights	Charter), the rights of the child	(Article 24 of the Charter), the rights	
of elderly (Article 25 of the Charter),	(Article 24 of the Charter), the rights	of elderly (Article 25 of the Charter),	
the rights of persons with disabilities	of elderly (Article 25 of the Charter),	the rights of persons with disabilities	
(article 26 of the Charter) and the	the rights of persons with disabilities	(Article 26 of the Charter) and the	
right to an effective remedy (Article	(article 26 of the Charter) and the	right to an effective remedy (Article	
47 of the Charter).	right to an effective remedy (Article	47 of the Charter).	
	47 of the Charter).	,	
	(37a) Access to data contained in		
	the EES should in no circumstances		
	be used by Member States as a		
	ground to circumvent their		
	international obligations under the		
	Geneva Convention Relating to the		
	Status of Refugees of 28 July 1951,		
	as supplemented by the New York		
	Protocol of 31 January 1967, and		
	should not be used to deny asylum		
	seekers safe and effective legal		
	avenues to Union territory to		
	•		
	exercise their right to international		

	protection.		
			Presidency drafting proposal:
			New recital 37aa (linked to Art. 44)
			The information to be provided to third country nationals whose data are recorded in the EES, may be provided by Member States in writing by any appropriate means, including leaflets, posters or a website.
(38) The effective monitoring of the application of this Regulation	(38) The effective monitoring of the application of this Regulation	(38) The effective monitoring of the application of this Regulation	
requires evaluation at regular	requires evaluation at regular	requires evaluation at regular	
intervals. The Member States should	intervals. The Member States should	intervals. The Member States should	
lay down rules on penalties	lay down rules on penalties	lay down rules on penalties	
applicable to infringements of the	applicable to infringements of the	applicable to infringements of the	
provisions of this Regulation and	provisions of this Regulation and	provisions of this Regulation and	
ensure that they are implemented.	ensure that they are implemented.	ensure that they are implemented.	
(39) In order to ensure uniform	(39) In order to ensure uniform	(39) In order to ensure uniform	
conditions for the implementation of	conditions for the implementation of	conditions for the implementation of	
this Regulation, implementing	this Regulation, implementing	this Regulation, implementing	
powers should be conferred on the	powers should be conferred on the	powers should be conferred on the	
Commission. Those powers should	Commission. Those powers should	Commission. Those powers should	
be exercised in accordance with	be exercised in accordance with	be exercised in accordance with	
Regulation (EU) No 182/2011 of the	Regulation (EU) No 182/2011 of the	Regulation (EU) No 182/2011 of the	
European Parliament and of the	European Parliament and of the	European Parliament and of the	
Council ¹⁵ .	Council ¹⁵ .	Council ¹⁵ .	

¹⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

	(39a) By the start operations it should be assumed that all remaining internal border controls have been lifted and that all the current Schengen Member States apply Title III of Regulation (EU) 2016/399 of the European Parliament and of the Council ^{15a} . The EES as a border management tool enhancing the efficiency of border checks by calculating and monitoring the duration of the authorised stay should therefore be developed and its integration into national border infrastructures be prepared on the basis of one common area without internal border controls in which persons may move freely for one defined period of authorised stay.		
(40) The establishment of a common EES and the creation of common obligations, conditions and		(40) The establishment of a common EES and the creation of common obligations, conditions and	
procedures for use of data cannot be	procedures for use of data cannot be	procedures for use of data cannot be	

sufficiently achieved by the Member	sufficiently achieved by the Member	sufficiently achieved by the Member	Λ
States and can therefore, by reason of	States and can therefore, by reason of	States and can therefore, by reason of	
, 5	the scale and impact of the action, be		
the scale and impact of the action, be better achieved at Union level in	better achieved at Union level in	the scale and impact of the action, be better achieved at Union level in	
accordance with the principle of	accordance with the principle of	accordance with the principle of	
subsidiarity as set out in Article 5 of	subsidiarity as set out in Article 5 of	subsidiarity as set out in Article 5 of	
the Treaty on European Union. In	the Treaty on European Union. In	the Treaty on European Union. In	
accordance with the principle of	accordance with the principle of	accordance with the principle of	
proportionality, as set out in that	proportionality, as set out in that	proportionality, as set out in that	
Article, the Regulation does not go	Article, the Regulation does not go	Article, the Regulation does not go	
beyond what is necessary in order to	beyond what is necessary in order to	beyond what is necessary in order to	
achieve this objective.	achieve this objective.	achieve this objective.	/
(41) Following the entry into	(41) Following the entry into	(41) Following the entry into	
operation of the Entry/Exit System,	operation of the Entry/Exit System,	operation of the [] EES, Article	
Article 20(2) of the Convention	Article 20(2) of the Convention	20(2) of the Convention	
implementing the Schengen	implementing the Schengen	implementing the Schengen	
Agreement should be amended as it	Agreement should be amended as it	Agreement should be amended []	
is incompatible with Article 77(2)(a)	is incompatible with $Article/77(2)(a)$	with regard to bilateral []	
and (c) of the Treaty on Functioning	and (c) of the Treaty on Functioning	agreements concluded by Member	
of the European Union due to the fact	of the European Union due to the fact	States and the authorised length of	
that the common policy on visas	that the common policy on visas	stay beyond 90 days in any 180-day	
cannot be based on the existence or	cannot be based on the existence or	period of third country nationals	
non-existence of bilateral visa waiver	non-existence of bilateral visa waiver	exempt from the visa obligation [].	
agreements concluded by Member	agreements concluded by Member	[]	
States and the authorised length of	States and the authorised length of		
stay of third country nationals should	stay of third country nationals should		
not depend on the number and	not depend on the number and		
content of such bilateral agreements.	content of such bilateral agreements.		
Furthermore the Entry/Exit system	Furthermore the Entry/Exit system		
could not take into account of and	could not take into account of and		
calculate the authorised length of	calculate the authorised length of		
stay of visa free third country	stay of visa free third country		
nationals benefitting from such	nationals benefitting from such		
nationals benefitting from sdell	V nationalo benefitting from saen		

agreements and they should be	agreements and they should be		
agreements and they should be	agreements and they should be		
eliminated.	eliminated.		
(42) The projected costs of the	(42) The projected costs of the	(42) The projected costs of the	
EES are lower than the budget	EES are lower than the budget	EES are lower than the budget	
earmarked for Smart Borders in	earmarked for Smart Borders in	earmarked for Smart Borders in	
Regulation (EU) 515/2014 of the	Regulation (EU) 515/2014 of the	Regulation (EU) 515/2014 of the	
European Parliament and the	European Parliament and the	European Parliament and the	
Council ¹⁶ . Accordingly, following	Council ¹⁶ . Accordingly, following	Council ¹⁶ . Accordingly, following	
the adoption of this Regulation,	the adoption of this Regulation,	the adoption of this Regulation,	
pursuant to Article $5(5)(b)$ of	pursuant to Article $5(5)(b)$ of	pursuant to Article 5(5)(b) of	
Regulation (EU) 515/2014, the	Regulation (EU) 515/2014, the	Regulation (EU) 515/2014, the	
Commission should, by means of a	Commission should, by means of a	Commission should, by means of a	
delegated act, re-allocate the amount	delegated act, re-allocate the amount	delegated act, re-allocate the amount	
currently attributed for developing IT	currently attributed for developing IT	currently attributed for developing IT	
systems supporting the management	systems supporting the management	systems supporting the management	
of migration flows across the	of migration flows across the	of migration flows across the	
external borders.	external borders.	external borders.	
(43) This Regulation establishing	(43) This Regulation establishing	(43) []	
the EES replaces the obligation to	the EES replaces the obligation to		
stamp passports of third country	stamp passports of third country		
nationals which is applicable by all	nationals which is applicable by all		
acceding Member States. Stays in	acceding Member States. Stays in		
Member States which are not yet	Member States which are not yet		
fully applying the Schengen acquis in	fully applying the Schengen acquis in		
accordance with their respective Acts	accordance with their respective Acts		
of Accession should not be taken into	of Accession should not be taken into		
account in the calculation of the	account in the calculation of the		
duration of the authorised stay in the	duration of the authorised stay in the		
Schengen area. Such Member States	Schengen area. Such Member States		
should register in the EES the stay of	should register in the EES the stay of		

¹⁶ Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing as part of the Internal Security Fund, the Instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

third country nationals but the	third country nationals but the		
automated calculator in the system	automated calculator in the system		
should not compute it as part of the	should not compute it as part of the		
authorised length of stay.	authorised length of stay.		
(44) This Regulation is without	(44) This Regulation is without	(44) This Regulation is without	
prejudice to the application of	prejudice to the application of	prejudice to the application of	
Dreictive 2004/38/EC.	Dreictive Directive 2004/38/EC.	D <u>i</u> rective 2004/38/EC.	
(45) In accordance with Articles 1	(45) In accordance with Articles $1/$	(45) In accordance with Articles 1	
and 2 of Protocol No 22 on the	and 2 of Protocol No 22 on the	and 2 of Protocol No 22 on the	
position of Denmark, annexed to the	position of Denmark, annexed to the	position of Denmark, annexed to the	
Treaty on European Union and to the	Treaty on European Union and to the	Treaty on European Union and to the	
Treaty on the Functioning of the	Treaty on the Functioning of the	Treaty on the Functioning of the	
European Union, Denmark is not	European Union, Denmark is not	European Union, Denmark is not	
taking part in the adoption of this	taking part in the adoption of this	taking part in the adoption of this	
Regulation and is not bound by it or	Regulation and is not bound by it or	Regulation and is not bound by it or	
subject to its application. Given that	subject to its application. Given that	subject to its application. Given that	
this Regulation builds upon the	this Regulation builds upon the	this Regulation builds upon the	
Schengen acquis, Denmark shall, in	Schengen acquis, Denmark shall, in	Schengen acquis, Denmark shall, in	
accordance with Article 4 of that	accordance with Article 4 of that	accordance with Article 4 of that	
Protocol, decide within a period of	Protocol, decide within a period of	Protocol, decide within a period of	
six months after the Council has	six months after the Council has	six months after the Council has	
decided on this Regulation whether it	decided on this Regulation whether it	decided on this Regulation whether it	
will implement it in its national law.	will implement it in its national law.	will implement it in its national law.	
(46) This Regulation constitutes a	(46) This Regulation constitutes a	(46) This Regulation constitutes a	
development of the provisions of the	development of the provisions of the	development of the provisions of the	
Schengen acquis in which the United	Schengen acquis in which the United	Schengen acquis in which the United	
Kingdom does not take part, in	Kingdom does not take part, in	Kingdom does not take part, in	
accordance with Council Decision	accordance with Council Decision	accordance with Council Decision	
$2000/365/\text{EC}^{17}$; the United Kingdom	$2000/365/EC^{17}$; the United Kingdom	2000/365/EC ¹⁷ ; the United Kingdom	
is therefore not taking part in the	is therefore not taking part in the	is therefore not taking part in the	

¹⁷ Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen acquis (OJ L 131, 1.6.2000, p. 43).

adoption of this Regulation and is not		adoption of this Regulation and is not	
bound by it or subject to its	bound by it or subject to its	bound by it or subject to its	
application.	application.	application.	
(47) This Regulation constitutes a	(47) This Regulation constitutes α	(47) This Regulation constitutes a	
development of the provisions of the	development of the provisions of the	development of the provisions of the	
Schengen acquis in which Ireland	Schengen <i>acquis</i> in which Ireland	Schengen acquis in which Ireland	
does not take part, in accordance	does not take part, in accordance	does not take part, in accordance	
with Council Decision	with Council Decision	with Council Decision	
$2002/192/EC^{18}$; Ireland is therefore	$2002/192/EC^{18}$; Ireland is therefore	2002/192/EC ¹⁸ ; Ireland is therefore	
not taking part in the adoption of this	not taking part in the adoption of this	not taking part in the adoption of this	
Regulation and is not bound by it or	Regulation and is not bound by it or	Regulation and is not bound by it or	
subject to its application.	subject to its application.	subject to its application.	
(48) As regards Iceland and	(48) As regards Iceland and	(48) As regards Iceland and	
Norway, this Regulation constitutes a	Norway, this Regulation constitutes a	Norway, this Regulation constitutes a	
development of the provisions of the	development of the provisions of the	development of the provisions of the	
Schengen <i>acquis</i> within the meaning	Schengen <i>acquis</i> within the meaning	Schengen <i>acquis</i> within the meaning	
of the Agreement concluded by the	of the Agreement concluded by the	of the Agreement concluded by the	
Council of the European Union and	Council of the European Union and	Council of the European Union and	
the Republic of Iceland and the	the Republic of Iceland and the	the Republic of Iceland and the	
Kingdom of Norway concerning the	Kingdom of Norway concerning the	Kingdom of Norway concerning the	
latters' association with the	latters' association with the	latters' association with the	
implementation, application and	implementation, application and	implementation, application and	
development of the Schengen	development of the Schengen	development of the Schengen	
acquis ¹⁹ which fall within the area	acquis ¹⁹ which fall within the area	acquis ¹⁹ which fall within the area	
referred to in Article 1, point A of	referred to in Article 1, point A of	referred to in Article 1, point A of	
Council Decision 1999/437/EC ²⁰ .	Council Decision 1999/437/EC ²⁰ .	Council Decision 1999/437/EC ²⁰ .	

¹⁸ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

¹⁹ OJ L 176, 10.7.1999, p. 36.

²⁰ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis (OJ L 176, 10.7.1999, p. 31).

	1		1
(49) As regards Switzerland, this	(49) As regards Switzerland, this	(49) As regards Switzerland, this	
Regulation constitutes a development	Regulation constitutes a development	Regulation constitutes a development	
of the provisions of the Schengen	of the provisions of the Schengen	of the provisions of the Schengen	
acquis within the meaning of the	acquis within the meaning of the	acquis within the meaning of the	
Agreement between the European	Agreement between the European	Agreement between the European	
Union, the European Community and	Union, the European Community and	Union, the European Community and	
the Swiss Confederation on the Swiss	the Swiss Confederation on the Swiss	the Swiss Confederation on the Swiss	
Confederation's association with the	Confederation's association with the	Confederation's association with the	
implementation, application and	implementation, application and	implementation, application and	
development of the Schengen	development of the Schengen	development of the Schengen	
$acquis^{21}$ which fall within the area	$acquis^{21}$ which fall within the area	$acquis^{21}$ which fall within the area	
referred to in Article 1, point A of	referred to in Article 1, point A of	referred to in Article 1, point A of	
Council Decision 1999/437/EC read	Council Decision 1999/437/EC read	Council Decision 1999/437/EC read	
in conjunction with Article 3 of	in conjunction with Article 3 of	in conjunction with Article 3 of	
Council Decision 2008/146/EC ²² and	Council Decision 2008/146/EC ²² and	Council Decision 2008/146/EC ²² and	
with Article 3 of Council Decision	with Article 3 of Council Decision	with Article 3 of Council Decision	
2008/149/JHA ²³ .	/2008/149/JHA ²³ .	2008/149/JHA ²³ .	
(50) As regards Liechtenstein, this	(50) As regards Liechtenstein, this	(50) As regards Liechtenstein, this	
Regulation constitutes a development	Regulation constitutes a development	Regulation constitutes a development	
of the provisions of the Schengen	of the provisions of the Schengen	of the provisions of the Schengen	
acquis within the meaning of the	acquis within the meaning of the	acquis within the meaning of the	
Protocol between the European	Protocol between the European	Protocol between the European	
Union, the European Community, the	Union, the European Community, the	Union, the European Community, the	
Swiss Confederation and the	Swiss Confederation and the	Swiss Confederation and the	
Principality of Liechtenstein on the	Principality of Liechtenstein on the	Principality of Liechtenstein on the	

²¹ OJ L 53, 27.2.2008, p. 52.

²² Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis (OJ L 53, 27.2.2008, p. 1.

²³ Council Decision 2008/149/JHA of 28 January 2008 on the conclusion on behalf of the European Union of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis (OJ L 53, 27.2.2008, p. 50).

accession of the Principality of	accession of the Principality of	accession of the Principality of	
1 1	1 0		
Liechtenstein to the Agreement	Liechtenstein to the Agreement	Liechtenstein to the Agreement	
between the European Union, the	between the European Union, the	between the European Union, the	
European Community and the Swiss	European Community and the Swiss	European Community and the Swiss	
Confederation on the Swiss	Confederation on the Swiss	Confederation on the Swiss	
Confederation's association with the	Confederation's association with the	Confederation's association with the	
implementation, application and	implementation, application and	implementation, application and	
development of the Schengen	development of the Schengen	development of the Schengen	
<i>acquis</i> ²⁴ which fall within the area	$acquis^{24}$ which fall within the area	$acquis^{24}$ which fall within the area	
referred to in Article 1, point A of	referred to in Article 1, point A of	referred to in Article 1, point A of	
Council Decision 1999/437/EC read	Council Decision 1999/437/EC read	Council Decision 1999/437/EC read	
in conjunction with Article 3 of	in conjunction with Article 3 of	in conjunction with Article 3 of	
Council Decision 2011/350/EU ²⁵ and	Council Decision 2011/350/EU ²⁵ and	Council Decision 2011/350/EU ²⁵ and	
with Article 3 of Council Decision	with Article 3 of Council Decision	with Article 3 of Council Decision	
2011/349/EU. ²⁶	/2011/349/EU. ²⁶	2011/349/EU. ²⁶	
(51) This Regulation constitutes	deleted	(51) [As regards Cyprus, Bulgaria,	
an act building upon, or otherwise		Romania and Croatia, provisions of	
relating to, the Schengen acquis		this Regulation referring to VIS	
within, respectively, the meaning of		constitute [] provisions building	
Article 3(2) of the 2003 Act of		upon, or otherwise relating to, the	
Accession, Article 4(2) of the 2005		Schengen acquis within,	

²⁴ OJ L 160, 18.6.2011, p. 21.

²⁵ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

²⁶ Council Decision 2011/349/EU of 7 March 2011 on the conclusion on behalf of the European Union of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis relating in particular to judicial cooperation in criminal matters and police cooperation (OJ L 160, 18.6.2011, p. 1).

Act of Accession and Article 4(2) of	respectively, the meaning of Article
the 2011 Act of Accession,	3(2) of the 2003 Act of Accession,
	Article 4(2) of the 2005 Act of
	Accession and Article 4(2) of the
	2011 Act of Accession].
	(52) The EES should not be
	operated by the Member States for
	which the verification in accordance
	with the applicable Schengen
	evaluation procedure has not yet
	been successfully completed and to
	which passive access to the VIS for
	the purpose of operating the EES has
	not yet been granted. Member States
	not operating the EES from the initial
	start of the operation should be
	connected to the EES in accordance
	with the procedure set out in this
	Regulation, as soon as all the
	relevant conditions are met,

CHAPTER 1	CHAPTER 1	CHAPTER 1	
General Provisions	General Provisions	General Provisions	
Article 1	Article 1	Article 1	
Subject matter	Subject matter	Subject matter	
1. This Regulation establishes	1. This Regulation establishes	1. This Regulation establishes	Provisionally agreed:
an 'Entry/Exit System' (EES) for the	an 'Entry/Exit System' (EES) for the	an 'Entry/Exit System' (EES) for the	1. This Regulation establishes
recording and storage of information	recording and storage of information	recording and storage of information	an 'Entry/Exit System' (EES) for the
on the date, time and place of entry	on the date, time and place of entry	on the date, time and place of entry	recording and storage of information
and exit of third country nationals	and exit of third country nationals	and exit of third country nationals	on the date, time and place of entry
crossing the external borders of the	crossing the external borders of the	crossing the [] borders at which	and exit of third country nationals
Member States, for the calculation of	Member States, for the calculation of	the EES is operated of the Member	crossing the borders at which the
the duration of their stay, and for the	the duration of their <i>authorised</i> stay,	States, for the calculation of the	EES is operated of the Member
generation of alerts to Member States	and for the generation of alerts to	duration of their authorised stay, and	States, for the calculation of the
when authorised periods for stay	Member States when authorised	for the generation of alerts to	duration of their authorised stay, and
have expired as well as for the	periods for stay have expired as well	Member States when the authorised	for the generation of alerts to
recording of the date, time and place	as for the recording of the date, time	[] stay has expired as well as for	Member States when the authorised
of refusal of entry of third country	and place of refusal of entry of third	the recording of the date, time and	stay has expired as well as for the
nationals whose entry for a short stay	country nationals whose entry for a	place of refusal of entry of third	recording of the date, time and place
{or on the basis of a touring visa}	short stay {or on the basis of a	country nationals whose entry for a	of refusal of entry of third country
has been refused as well as the	touring visa} has been refused as	short stay [or on the basis of a	nationals whose entry for a short stay
authority of the Member State which	well as the authority of the Member	touring visa] has been refused as well	has been refused as well as the
refused the entry and the reasons for	State which refused the entry and the	as the authority of the Member State	authority of the Member State which
the refusal.	reasons for the refusal.	which refused the entry and the	refused the entry and the reasons for
		reasons for the refusal.	the refusal.
2. This Regulation also lays	2. This For the purposes of the	2. This Regulation also lays	Provisionally agreed:
down in its Chapter IV the conditions	prevention, detection and	down in its Chapter IV the conditions	2. For the purposes of the
under which Member States'	investigation of terrorist offences or	under which Member States'	prevention, detection and
designated law enforcement	of other serious criminal offences,	designated [] authorities and the	investigation of terrorist offences or
authorities and the European Police	this Regulation also lays down in its	European Police Office (Europol)	of other serious criminal offences,
Office (Europol) may obtain access	Chapter IV the conditions <i>and</i>	may obtain access for consultation of	this Regulation also lays down in its
for consultation of the EES for the	<i>limitations</i> under which Member	the EES for the purposes of the	Chapter IV the conditions under

purposes of the prevention, detection and investigation of terrorist offences	States' designated law enforcement authorities and the European Police	prevention, detection and investigation of terrorist offences or	which Member States' designated authorities and the European Police
or of other serious criminal offences.	Office (Europol) may obtain access for consultation of the EES for the	of other serious criminal offences.	Office (Europol) may obtain access for consultation of the EES.
	purposes of the prevention, detection		for constitution of the EES.
	and investigation of terrorist offences or of other serious criminal offences.		See also recital 16a
Article 2	Article 2	Article 2	
Scope	Scope	Scope	
1. This Regulation applies to	1. This Regulation applies to /	1. This Regulation applies to	Provisionally agreed
third country nationals admitted for a	third country nationals admitted for/a	third country nationals admitted for a	1. This Regulation applies to
short stay {or on the basis of a	short stay {or on the basis of a	short stay [or on the basis of a	third country nationals admitted for a
touring visa} in the territory of the	touring visa} in the territory of the	touring visa] in the territory of the	short stay [or on the basis of a
Member States subject to border	Member States subject to border	Member States subject to border	touring visa] in the territory of the
checks in accordance with	checks in accordance with /	checks in accordance with	Member States subject to border
Regulation (EU) 2016/399 when	Regulation (EU) 2016/399/when	Regulation (EU) 2016/399 when	checks in accordance with
crossing the external borders of the	crossing the external borders of the	crossing the [] borders at which	Regulation (EU) 2016/399 when
Member States. When entering and	Member States. When entering and	the EES is operated []. When	crossing the borders at which the
exiting the territory of the Member	exiting the territory of the Member	entering and exiting the territory of	EES is operated. When entering and
States, it applies to third country	States, it applies to third country	the Member States, it applies to third	exiting the territory of the Member
nationals who are family members of	nationals who are <i>f</i> amily members of	country nationals who are []	States, it applies to third country
a Union citizen to whom Directive	a Union citizen to whom Directive	members of [] the family of []	nationals:
2004/38/EC applies or of a national	2004/38/EC applies or of a national	nationals of third countries enjoying	i) who are family members of a
of a third country enjoying the right	of a third country enjoying the right	the right of free movement under	Union citizen to whom Directive
of free movement under Union law	of free movement under Union law	Union law or enjoying the right of	2004/38/EC applies or of a national
and who do not hold a residence card	and who do not hold a residence card	free movement equivalent to that of	of a third country enjoying the right
referred to under Directive	referred to under Directive	Union citizens under an agreement	of free movement equivalent to that
2004/38/EC.	2004/ 3 8/EC.	between the Union and its Member	of Union citizens under an agreement
		States on the one hand and a third	between the Union and its Member
		country on the other, and who do not	States on the one hand and a third
		hold a residence card referred to	country on the other; and
	\bigvee	under Directive 2004/38/EC or a	ii) who do not hold a residence

		residence document pursuant to the agreement as applicable.	card referred to under Directive 2004/38/EC or a residence permit pursuant to Regulation (EC) No 1030/2002.
 2. This Regulation also applies to third country nationals whose entry for a short stay {or on the basis of a touring visa} to the territories of the Member States is refused in accordance with Article 14 of Regulation (EU) 2016/399. 3. This Regulation does not apply to: (a) family members of a Union citizen to whom Directive 2004/38/EC applies who hold a residence card pursuant to that Directive; 	 This Regulation also applies to third country nationals whose entry for a short stay {or on the basis of a touring visa} to the territories of the Member States is refused in accordance with Article 14 of Regulation (EU) 2016/399. This Regulation does not apply to: (a) family members of a Union citizen to whom Directive 2004/38/EC applies who hold a residence card pursuant to that Directive; 	 This Regulation also applies to third country nationals whose entry for a short stay [or on the basis of a touring visa] to the territories of the Member States is refused in accordance with Article 14 of Regulation (EU) 2016/399. This Regulation does not apply to: (a) [] third country nationals who are members of the family of a Union citizen to whom Directive 2004/38/EC applies <u>and</u> who hold a residence card pursuant to that Directive; 	Provisionally agreed: (a) third country nationals who are members of the family of a Union citizen to whom Directive 2004/38/EC applies and who hold a residence card pursuant to that Directive;
(b) family members of third country nationals enjoying the right of free movement under Union law who hold a residence card pursuant to Directive 2004/38/EC;	(b) family members of third country nationals enjoying the right of free movement under Union law who hold a residence card pursuant to Directive 2004/38/EC;	(b) [] third country nationals who are members of the family of <u>nationals of third countries</u> enjoying the right of free movement under Union law <u>or enjoying the right of</u> free movement equivalent to that of <u>Union citizens under an agreement</u> between the Union and its Member <u>States on the one hand and a third</u> <u>country on the other, and</u> who hold a residence card pursuant to Directive 2004/38/EC <u>or a residence document</u>	 <i>Provisionally agreed:</i> (b) third country nationals who are members of the family of a national of a third country enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States on the one hand and a third country on the other and who hold a residence card pursuant to Directive 2004/38/EC or a residence permit pursuant to

		pursuant to the agreement as applicable;	Regulation 1030/2002;
(c) holders of residence permits referred to in point 16 of Article 2 of Regulation (EU) 2016/399 other than those covered by points (a) and (b) of this paragraph;	(c) holders of residence permits referred to in point 16 of Article 2 of Regulation (EU) 2016/399 other than those covered by points (a) and (b) of this paragraph;	 (c) holders of residence permits referred to in point 16 of Article 2 of Regulation (EU) 2016/399 other than those covered by points (a) and (b) of this paragraph; (cc) third country nationals exercising mobility in accordance 	Provisionally agreed: (cc) third country nationals
		with Directive 2014/66/EU or Directive (EU) 2016/801;	exercising mobility in accordance with Directive 2014/66/EU or Directive (EU) 2016/801;
 (d) holders of long-stay visas; (e) nationals of Andorra, Monaco and San Marino; 	(d) holders of long-stay visas; (e) nationals of Andorra, Monaco and San Marino;	 (d) holders of long-stay visas; (e) nationals of Andorra, Monaco, [] San Marino, and holders of a passport issued by the Vatican City State; 	Provisionally agreed: (e) nationals of Andorra, Monaco, San Marino, <u>and holders of</u> <u>a passport issued by the Vatican City</u> <u>State;</u>
(f) persons or categories of persons exempt from or benefiting from facilitation of border crossing as referred to in Article 6a (3)(d),(e) and (f) of Regulation (EU) 2016/399.	(f) persons or categories of persons exempt from or benefiting from facilitation of border crossing as referred to in Article 6a (3)(d),(e) and (f) of Regulation (EU) 2016/399.	(f) persons or categories of persons exempt from <u>border checks</u> or benefiting from facilitation of border crossing as referred to in Article 6a (3)(d) [] of Regulation (EU) 2016/399	 <i>Provisionally agreed:</i> (f) persons or categories of persons exempt from <u>border checks</u> or benefiting from facilitation of border crossing as referred to in Article 6a (3)(d) of Regulation (EU) 2016/399
		(g) persons or categories of persons as referred to in Article 6a (3) (e), (f), (g) and (h) of Regulation (EU) 2016/399.	Provisionally agreed: (g) persons or categories of persons as referred to in Article 6a (3) (e), (f), (g) and (h) of Regulation (EU) 2016/399.

This Regulation does not apply to family members referred to in points (a) and (b) of the first subparagraph even if they are not accompanying or joining the Union citizen or a third country national enjoying the right of free movement.	This Regulation does not apply to family members referred to in points (a) and (b) of the first subparagraph even if they are not accompanying or joining the Union citizen or a third country national enjoying the right of free movement.	This Regulation does not apply to <u>third country nationals who are</u> [] members <u>of the family</u> referred to in points (a) and (b) of the first subparagraph even if they are not accompanying or joining the Union citizen or a third country national enjoying the right of free movement.	Provisionally agreed: This Regulation does not apply to third country nationals who are members of the family referred to in points (a) and (b) of the first subparagraph even if they are not accompanying or joining the Union citizen or a third country national enjoying the right of free movement.
4. The provisions of this Regulation regarding the calculation of the duration of stay and the generation of alerts to Member States when authorised periods for stay have expired do not apply to third country nationals who are family members of a Union citizen to whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement under Union law and who do not hold a residence card referred to under Directive 2004/38/EC.	4. The provisions of this Regulation regarding the calculation of the duration of stay and the generation of alerts to Member States when authorised periods for stay have expired do not apply to third country nationals who are family members of a Union citizen to whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement under Union law and who do not hold a residence card referred to under Directive 2004/38/EC.	4. The provisions of this Regulation regarding the calculation of the duration of <u>the authorised</u> stay and the generation of alerts to Member States when <u>the</u> authorised [] stay has expired do not apply to third country nationals who are family members of a Union citizen to whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement under Union law and who do not hold a residence card referred to under Directive 2004/38/EC.	 <i>Provisionally agreed:</i> 4. The provisions of this Regulation regarding the calculation of the duration of the authorised stay and the generation of alerts to Member States when the authorised stay has expired do not apply to third country nationals: i) who are family members of a Union citizen to whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States on the one hand and a third country on the other; and ii) who do not hold a residence card referred to under Directive 2004/38/EC or a residence permit pursuant to Regulation (EC) No 1030/2002.

Article 3	Article 3	Article 3	
Definitions	Definitions	Definitions	
1. For the purposes of this	1. For the purposes of this	1. For the purposes of this	
Regulation, the following definitions	Regulation, the following definitions	Regulation, the following definitions	
apply:	apply:	apply:	
(1) 'external borders' mean	(1) 'external borders' mean	(1) 'external borders' means	Provisionally agreed:
external borders as defined in Article	external borders as defined in Article	<u>'external borders'</u> as defined in	(1) 'external borders' mean
2(2) of Regulation (EU) 2016/399;	2(2) of Regulation (EU) 2016/399;	Article 2(2) of Regulation (EU)	external borders as defined in Article
		2016/399;	2(2) of Regulation (EU) 2016/399;
		(1a) <u>'internal borders' means</u>	Provisionally agreed:
		internal borders as defined in Article	(1a) <u>'internal borders' means</u>
		2(1) of Regulation (EU) 2016/399;	internal borders as defined in Article
			2(1) of Regulation (EU) 2016/399;
(2) 'border authorities' mean the	(2) 'border authorities' mean the	(2) 'border <u>check</u> authorities'	Provisionally agreed:
competent authorities assigned, in	competent authorities assigned, in	mean the competent authorities	(2) 'border authorities' mean the
accordance with national law, to	accordance with national law, to	assigned, in accordance with national	border guard assigned in accordance
carry out checks on persons at the	carry out checks on persons at the	law, to carry out checks on persons at	with national law to carry out <i>border</i>
external border crossing points in	external border crossing points in	the [] border crossing points at	checks as defined in Article 2(11) of
accordance with Regulation (EU)	accordance with Regulation (EU)	which the EES is operated in	Regulation (EU) 2016/399;
2016/399;	2016/399;	accordance with Article 60 of this	
		Regulation [];	
(3) 'immigration authorities'	(3) 'immigration authorities'	(3) 'immigration authorities'	Provisionally agreed:
mean the competent authorities	mean the competent authorities	mean the competent authorities	
assigned, in accordance with national	assigned, in accordance with national	assigned, in accordance with national	(3) 'immigration authorities'
law, to examine the conditions and	law, to examine the conditions and	law, to <u>:</u>	mean the competent authorities
take decisions related to the stay of	take decisions related to the stay of		assigned responsible, in accordance
third country nationals on the	third country nationals on the		with national law, for to:
territory of the Member States;	territory of the Member States;		
		(a) check within the territory of	Provisionally agreed:
		the Member States whether the	(a) <u>check checking within the</u>
		conditions for entry to or of	territory of the Member States

		authorised stay in the territory of the Member States are fulfilled and/or	whether the conditions for entry to or of authorised stay in the territory of
		Member States are furnied and/or	the Member States are fulfilled
			and/or
		(b) examine the conditions and take decisions related to the []	Compromise provisionally agreed subject to clarification that it does
		<u>residence</u> of third country nationals on the territory of the Member States	not include asylum determination authorities.
		and where relevant provide advice in	Compromise Proposal
		accordance with Regulation (EU)	(b) <i>examining</i> examine-the
		<u>377/2004 and/or;</u>	conditions and takinge decisions
			related to the <u>residence</u> of third
			country nationals on the territory of
			the Member States insofar as these
			authorities do not constitute quasi- judicial or administrative bodies in
			a Member State responsible for
			examining applications for
			international protection competent
			to take decisions at first instance in
			such cases, and where relevant
			providing advice in accordance with
			Regulation (EU) 377/2004 and/or;
		c) <u>facilitate the return of third</u> country nationals to a third country	 <i>Compromise provisionally agreed:</i> c) facilitate the return of third
		of origin or transit.	country nationals to a third country
		or origin or transit.	of origin or transit.
(4) 'visa authorities' mean the	(4) 'visa authorities' mean the	(4) 'visa authorities' mean the	Provisionally agreed:
competent authorities, including the	competent authorities, including the	[] authorities as defined in Article	(4) 'visa authorities' mean the
central visa authorities and the	central visa authorities and the	4(3) of Regulation (EC) No 767/2008	[] authorities as defined in Article
authorities responsible for issuing	authorities responsible for issuing	[];	4(3) of Regulation (EC) No 767/2008
visas at the external border, which	visas at the external border, which		[];

are responsible in each Member State	are responsible in each Member State		
for examining visa applications, for	for examining visa applications, for		
taking decisions on visa applications	taking decisions on visa applications		
and for taking decisions on whether	and for taking decisions on whether		
to annul, revoke or extend visas,	to annul, revoke or extend visas,		
		(4a) 'determining authority' means	
		any quasi-judicial or administrative	
		body in a Member State responsible	Presidency proposes to drop access
		for examining applications for	to the EES for asylum purposes.
		international protection competent to	to the EES for asytum purposes.
		take decisions at first instance in	
		such cases.	
	(4a) 'designated law enforcement	<u>such cases,</u>	Covered by 26a)
	(4a) 'designated law enforcement authorities' means the authorities		
			Provisionally agreed:
	responsible for the prevention,		Deleted
	detection or investigation of terrorist		
	offences or of other serious criminal		
	offences designated by the Member		
	States pursuant to Article 26;		
(5) 'third country national' means	(5) 'third country national' means	(5) 'third country national' means	Provisionally agreed:
any person who is not a citizen of the	any person who is not a citizen of the	any person who is not a citizen of the	(5) 'third country national' means
Union within the meaning of Article	Union within the meaning of Article	Union within the meaning of Article	any person who is not a citizen of the
20 of the Treaty, with the exception	20 of the Treaty, with the exception	20(1) of the [] TFEU, with the	Union within the meaning of Article
of persons who enjoy rights of free	of persons who enjoy rights of free	exception of persons who enjoy	20(1) of the [] TFEU, with the
movement equivalent to those of	movement equivalent to those of	rights of free movement equivalent to	exception of persons who enjoy
Union citizens under agreements	Union citizens under agreements	those of Union citizens under	rights of free movement equivalent to
between the Union, or the Union and	between the Union, or the Union and	agreements between the Union, or	those of Union citizens under
its Member States on the one hand,	its Member States on the one hand,	the Union and its Member States on	agreements between the Union, or
and third countries on the other hand;	and third countries on the other hand;	the one hand, and third countries on	the Union and its Member States on
and time countries on the other hand,	and third countries on the other hand,	the other hand;	the one hand, and third countries on
		the other hand,	the other hand;
(6) 'travel document' means a	(6) 'travel document' means a	(6) 'travel document' means a	
passport or other equivalent	passport or other equivalent	passport or other equivalent	

		1 / //// //////////////////////////////	
document, entitling the holder to	document, entitling the holder to	document, entitling the holder to	
cross the external borders and to	cross the external borders and to	cross the external borders and to	
which a visa may be affixed;	which a visa may be affixed;	which a visa may be affixed;	
(7) 'short stay' means stays in the	(7) 'short stay' means stays in the	(7) 'short stay' means <u>stay as</u>	
territory of the Member States of a	territory of the Member States of a	defined in Article 6(1) of Regulation	
duration of no more than 90 days in	duration of no more than 90 days in	<u>(EU) 2016/399 [];</u>	
any 180 day period;	any 180 day period;		
(8) 'short stay visa' means an	(8) 'short stay visa' means an	(8) 'short stay visa' means <u>visa as</u>	Provisionally agreed:
authorisation issued by a Member	authorisation issued by a Member	defined in Article 2(2)(a) of	(8) 'short stay visa' means an
State with a view to an intended stay	State with a view to an intended stay	<u>Regulation (EC) No 810/2009 [];</u>	authorisation issued by a Member
on the territory of the Member States	on the territory of the Member States		State with a view to an intended stay
of a duration of no more than 90 days	of a duration of no more than 90 days		on the territory of the Member States
in any 180 day period;	in any 180 day period visa as defined		of a duration of no more than 90 days
	in point (a) of point 2 of Article 2 of		in any 180 day period visa as defined
	Regulation (EC) No 810/2009 of the		in Article 2(2)(a) of Regulation (EC)
	European Parliament and of the		<u>No 810/2009 ^{1a};</u>
	Council ^{1a} ;		
	,		
			^{1a} Regulation (EC) No 810/2009 of
	^{1a} Regulation (EC) No 810/2009 of		the European Parliament and of the
	the European Parliament and of the		Council of 13 July 2009 establishing
	Council of 13 July 2009 establishing		a Community Code on Visas (Visa
	a Community Code on Visas (Visa		Code) (OJ L 243, 15.9.2009, p. 1).
	Code) (OJ L 243, 15.9.2009, p. 1).		
		(8a) <u>'national short stay visa'</u>	Provisionally agreed:
		means an authorisation issued by a	(8a) <u>'national short stay visa'</u>
		Member State which does not apply	means an authorisation issued by a
		the Schengen acquis in full with a	Member State which does not apply
		view to an intended stay in the	the Schengen acquis in full with a
		territory of that Member State of a	view to an intended stay in the
		duration of no more than 90 days in	territory of that Member State of a
		any 180-day period;	duration of no more than 90 days in
			any 180-day period;

(9) 'touring visa' means an	(9) 'touring visa' means an	(9) ['touring visa' means visa as	Provisionally agreed:
authorisation issued by a Member	authorisation issued by a Member	defined in Article 3(2) of Regulation	deleted
State with a view to an intended stay	State with a view to an intended stay	(EU) No xxx/20xx establishing a	
in the territory of two or more	in the territory of two or more	touring visa and amending the	
Member States for a duration of	Member States for a duration of	Convention implementing the	
more than 90 days in any 180 day	more than 90 days in any 180 day	Schengen Agreement and	
period, provided that the applicant	period, provided that the applicant	Regulations (EC) No 562/2006 and	
does not intend to stay for more than	does not intend to stay for more than	(EC) No 767/2008 []];	
90 days in any 180 day period in the	90 days in any 180 day period in the		
territory of the same Member State;	territory of the same Member State		
	12 months in any 15 month period,		
	provided that the applicant does not		
	stay for more than 90 days in any		
	180 day period in the territory of the		
	same Member State;		
		(9a) <u>'visa' means short stay visa</u>	No need for this definition if
		[and touring visa];	references to touring visa are
			deleted. Deletion provisionally
			agreed.
		(9b) <u>'authorised stay' means the</u>	Provisionally agreed:
		exact number of days during which a	(9b) <u>'authorised stay' means the</u>
		third country national may legally	exact number of days during which a
		stay in the territory of Member	third country national may legally
		States, counting from the date of the	stay in the territory of Member
		entry in accordance with the	States, counting from the date of the
		applicable provisions;	entry in accordance with the
			applicable provisions;
(10) 'carriers' mean any natural or	(10) 'carriers' mean any natural or	(10) 'carriers' mean <u>s carriers, as</u>	Provisionally agreed:
legal person whose profession it is to	legal person whose profession it is to	defined in Article 2(15) of	Deleted
provide transport of persons;	provide transport of persons;	<u>Regulation (EU) 2016/399 [];</u>	(Linked to article 12 which now
			refers specifically to Article 26 of the
			CISA, which specifies which
			carriers)

(11) 'Member State responsible'	(11) 'Member State responsible'	(11) 'Member State responsible'	
means the Member State which has	means the Member State which has	means the Member State which has	
entered the data in the EES;	entered the data in the EES;	entered the data in the EES;	
(12) 'verification' means the	(12) 'verification' means the	(12) 'verification' means the	
process of comparing of sets of data	process of comparing of sets of data	process of comparing of sets of data	
to establish the validity of a claimed	to establish the validity of a claimed	to establish the validity of a claimed	
identity (one-to-one check);	identity (one-to-one check);	identity (one-to-one check);	
(13) 'identification' means the	(13) 'identification' means the	(13) 'identification' means the	
process of determining a person's	process of determining a person's	process of determining a person's	
identity through a database search	identity through a database search	identity through a database search	
against multiple sets of data (one-to-	against multiple sets of data (one-to-	against multiple sets of data (one-to-	
many check);	many check);	many check);	
(14) 'alphanumeric data' means	(14) 'alphanumeric data' means	(14) 'alphanumeric data' means	Provisionally agreed:
data represented by letters, digits,	data represented by letters, digits,	data represented by letters, digits,	(14) 'alphanumeric data' means
special characters, space and	special characters, space and	special characters, space and	data represented by letters, digits,
punctuation marks;	punctuation marks;	punctuation marks;	special characters, space and
			punctuation marks;
(15) 'fingerprint data' means the	(15) 'fingerprint data' means the	(15) 'fingerprint data' means the	
data relating to fingerprints of the	data relating to fingerprints of the	data relating to four fingerprints of	Provisionally
index, middle finger, ring finger and	index, middle finger, ring finger and	the index, middle finger, ring finger	agreed:(15) 'fingerprint data'
little finger from the right hand,	little finger from the right hand,	and little finger from the right hand,	means the data relating to the four
where present, and otherwise from	where present, and otherwise from	where present, and otherwise from	fingerprints of the index, middle
the left hand, or a latent fingerprint;	the left hand, with sufficient image	the left hand, [] with sufficient	finger, ring finger and little finger
	resolution and quality to be used in	resolution and quality to be used in	from the right hand where present,
	automated biometric matching, or a	automated biometric matching;	and otherwise from the left hand;
	latent fingerprint;		and other wise from the left hand,
(16) 'facial image' means digital	(16) 'facial image' means digital	(16) 'facial image' means digital	Provisionally agreed:
images of the face with sufficient	images of the face with sufficient	images of the face with sufficient	
image resolution and quality to be	image resolution and quality to be	image resolution and quality to be	(16) 'facial image' means digital
used in automated biometric	used in automated biometric	used in automated biometric	images of the face with sufficient
matching;	matching;	matching;	image resolution and quality to be
			used in automated biometric

			matching;
(17) 'biometric data' means fingerprint data and facial image;	(17) 'biometric data' means fingerprint data and facial image;	(17) 'biometric data' means fingerprint data and facial image;	
(18) 'overstayer' means a third country national who does not fulfil, or no longer fulfils the conditions relating to the duration of a short stay on the territory of the Member States;	(18) 'overstayer' means a third country national who does not fulfil, or no longer fulfils the conditions relating to the duration of a short stay on the territory of the Member States;	(18) 'overstayer' means a third country national who does not fulfil, or no longer fulfils the conditions relating to [] <u>his or her authorised</u> stay on the territory of the Member States;	Provisionally agreed: (18) 'overstayer' means a third country national who does not fulfil, or no longer fulfils the conditions relating to <i>the duration of</i> <u>his or her</u> <u>authorised</u> <i>short</i> stay on the territory of the Member States;
 (19) 'eu-LISA' means the European Agency for the operational management of large-scale information systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011; 	(19) 'eu-LISA' means the European Agency for the operational management of large-scale information systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011;	(19) 'eu-LISA' means the European Agency for the operational management of large-scale information systems in the area of freedom, security and justice established by Regulation (EU) No 1077/2011;	
(20) 'Frontex' means the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union established by Regulation (EC) No 2007/2004;	(20) 'Frontex' means the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union European Border and Coast Guard Agency established by Regulation (EC) No 2007/2004 (EU) 2016/1624 of the European Parliament and of the Council ^{1a} ;	(20) [];	Provisionally agreed: (20) [];
	^{<i>Ia</i>} 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).		
(21) 'supervisory authority' means the supervisory authorities established in accordance with Article 28 of Directive 95/46/EC;	deleted	(21) 'supervisory authority' means the supervisory authorities established in accordance with Article 28 of Directive 95/46/EC;	Provisionally agreed: (21) "supervisory authorities" means the supervisory authority established in accordance with Article 51(1) of Regulation (EU) 2016/679 and the supervisory <u>authority established</u> in accordance with Article 41(1) of Directive (EU) 2016/680;
 (22) 'national supervisory authority' as regards law enforcement purposes means the supervisory authorities established in accordance with Article 25 of Council Framework Decision 2008/977/JHA; 	deleted	 (22) 'national supervisory authority' as regards law enforcement purposes means the supervisory authorities established in accordance with Article 25 of Council Framework Decision 2008/977/JHA; 	Provisionally agreed: deleted
 (23) 'national supervisory body' means the supervisory bodies established in accordance with Article 33 of Decision 2009/371/JHA; (24) 'EES data' means all data stored in the Central System in 	<i>deleted</i> (24) 'EES data' means all data stored in the Central System in	 (23) []; (24) 'EES data' means all data stored in the Central System in 	

accordance with Articles 13, 14, 15,	accordance with Articles 13, 14, 15,	accordance with Articles 13, 14, 15,	
16, 17 and 18;	16, 17 and 18;	16, 17 and 18;	
		, ,	
	(25) 'law enforcement' means the		
prevention, detection or investigation	prevention, detection or investigation	prevention, detection or investigation	
of terrorist offences or other serious	of terrorist offences or other serious	of terrorist offences or other serious	
criminal offences;	criminal offences;	criminal offences;	
(26) 'terrorist offences' mean the	(26) 'terrorist offences' mean the	(26) 'terrorist offences' mean the	
offences under national law which	offences under national law which	offences under national law which	
correspond or are equivalent to those	correspond or are equivalent to those	correspond or are equivalent to those	
referred to in Articles 1 to 4 of	referred to in Articles 1 to 4 of	referred to in Articles 1 to 4 of	
Framework Decision 2002/475/JHA;	Eramework Decision 2002/475/JHA;	Framework Decision 2002/475/JHA;	
· · · · · · · · · · · · · · · · · · ·	,	(26a) 'designated authorities' means	Provisionally agreed:
		authorities which are responsible for	(26a) 'designated authorities' means
		the prevention, detection or	authorities which are responsible for
		investigation of terrorist offences or	the prevention, detection or
		of other serious criminal offences	investigation of terrorist offences or
		and designated by Member States	of other serious criminal offences
		pursuant to Article 26.	and designated by Member States
			pursuant to Article 26.
(27) 'serious criminal offences'	(27) 'serious criminal offences'	(27) 'serious criminal offences'	pursuant to Fifthere 20.
means the offences which correspond	means the offences which correspond	means the offences which correspond	
or are equivalent to those referred to	or are equivalent to those referred to	or are equivalent to those referred to	
-	1	1	
in Article 2(2) of Framework	in Article 2(2) of Framework	in Article 2(2) of Framework	
Decision 2002/584/JHA, if they are	Decision 2002/584/JHA, if they are	Decision 2002/584/JHA, if they are	
punishable under national law by a	punishable under national law by a	punishable under national law by a	
custodial sentence or a detention	custodial sentence or a detention	custodial sentence or a detention	
order for a maximum period of at	order for a maximum period of at	order for a maximum period of at	
least three years;	least three years;	least three years;	
		(28) <u>'Self Service System' means</u>	Provisionally agreed:
		an automated system as defined in	(28) <u>'Self Service System' means</u>
		Article 2(23) of Regulation (EU)	an automated system as defined in
		<u>2016/399;</u>	Article 2(23) of Regulation (EU)
			<u>2016/399;</u>

		(29) <u>'e-gate' means an</u> infrastructure as defined in Article 2(24) of Regulation (EU) 2016/399;	Provisionally agreed: (29) <u>'e-gate' means an</u> infrastructure as defined in Article 2(24) of Regulation (EU) 2016/399;
		(30) <u>'Failure To Enrol Rate</u> (FTE)' means the proportion of registrations with insufficient quality of the biometric enrolment;	Provisionally agreed:(30)'Failure To Enrol Rate(FTE)' means the proportion ofregistrations with insufficient qualityof the biometric enrolment;
		(31) 'False Positive Identification Rate (FPIR) ' means the proportion of returned matches which do not belong to the checked traveller;	Provisionally agreed:(31)'False Positive IdentificationRate (FPIR)' means the proportionof returned matches which do notbelong to the checked traveller;
		(32) <u>'False Negative Identification</u> <u>Rate (FNIR) ' means the proportion</u> of missed matches during biometric <u>search although the traveller was</u> <u>registered with biometric data.</u>	Provisionally agreed:(32)'False Negative IdentificationRate (FNIR)' means the proportionof missed matches during biometricsearch although the traveller wasregistered with biometric data.
2. The terms defined in Article 2 of Directive 95/46/EC shall have the same meaning in this Regulation in so far as personal data are processed by the authorities of Member States for the purpose laid down in Article 5 of this Regulation.	2. The terms defined in Article 2 4 of Directive 95/46/EC Regulation (EU) 2016/679 shall have the same meaning in this Regulation in so far as personal data are processed by the authorities of Member States for the purpose purposes laid down in Article 5(1) of this Regulation.	2. The terms defined in Article 2 of Directive 95/46/EC shall have the same meaning in this Regulation in so far as personal data are processed by the authorities of Member States for the purpose laid down in Article 5 of this Regulation.	Reference to Article 5(1) pending agreement on Article 5.Provisionally agreed:2.The terms defined in Article 24 of Directive 95/46/EC Regulation (EU) 2016/679 shall have the same meaning in this Regulation in so far as personal data are processed by the authorities of Member States for the purpose purposes laid down in Article [5(1)] of this Regulation.

3. The terms defined in Article 2	3. The terms defined in Article 3	3. The terms defined in Article 2	Reference to Article 5(2) pending
of Framework Decision	of <i>Directive (EU) 2016/680</i> shall	of Framework Decision	agreement on Article 5
2008/977/JHA shall have the same	have the same meaning in this	2008/977/JHA shall have the same	Provisionally agreed:
meaning in this Regulation in so far	Regulation in so far as personal data	meaning in this Regulation in so far	3. The terms defined in Article <i>3</i>
as personal data are processed by the	are processed by the authorities of	as personal data are processed by the	of <i>Directive (EU) 2016/680</i> shall
authorities of the Member States for	the Member States for law	authorities of the Member States for	have the same meaning in this
Border Control systems purposes.	enforcement purposes laid down in	law enforcement purposes.	Regulation in so far as personal data
	Article 5(1a) of this Regulation.		are processed by the authorities of
			the Member States for law
			enforcement purposes laid down in
			Article [5(1a)] of this Regulation.
		Article 3a	Provisionally agreed:
		Dandana stankish the EES musliss	Article 3a
		Borders at which the EES applies	Doudous stankisk the FES smaller
		and use of the EES at these borders	Borders at which the EES applies
			and use of the EES at these borders
		<u>1.</u> <u>The EES shall apply at the</u>	Provisionally agreed:
		external borders of the Member	<u>1.</u> <u>The EES shall apply at the</u>
		<u>States</u> .	external borders of the Member
			States.
		2. The Member States which	Provisionally agreed:
		apply the Schengen acquis in full	2. The Member States which
		shall introduce the EES at their	apply the Schengen acquis in full
		internal borders with Member States	shall introduce the EES at their
		which do not yet apply the Schengen	internal borders with Member States
		acquis in full but operate the EES.	which do not yet apply the Schengen
			acquis in full but operate the EES.
		2a. The Member States which	Provisionally agreed:
		apply the Schengen acquis in full and	<u>2a.</u> <u>The Member States which</u>
		the Member States which do not yet	apply the Schengen acquis in full and
		apply the Schengen acquis in full but	the Member States which do not yet
		operate the EES shall introduce the	apply the Schengen acquis in full but
		EES at their internal borders with the	operate the EES shall introduce the

Member States which do not yet	EES at their internal borders with the
apply the Schengen acquis in full and	Member States which do not yet
do not operate the EES.	apply the Schengen acquis in full and
<u></u>	do not operate the EES.
2b. Member States which do not	Provisionally agreed:
yet apply the Schengen acquis in full	2b. Member States which do not
but operate the EES shall introduce	yet apply the Schengen acquis in full
the EES at their internal borders	but operate the EES shall introduce
defined under Article 2(1) (b) and (c)	the EES at their internal borders
of Regulation (EU) 2016/399.	defined under Article 2(1) (b) and (c)
	of Regulation (EU) 2016/399.
3. <u>At the internal land borders</u>	Provisionally agreed:
between two Member States which	3. <u>At the internal land borders</u>
do not yet apply the Schengen acquis	between two Member States which
in full but operate the EES, those	do not yet apply the Schengen acquis
Member States shall introduce the	in full but operate the EES, those
EES without biometric	Member States shall introduce the
functionalities by derogation from	EES without biometric
Art. 21(2) third and fourth	functionalities by derogation from
subparagraphs, as well as Art. 25. At	Art. 21(2) third and fourth
these internal borders, where the	subparagraphs, as well as Art. 25. At
third country national is not yet	these internal borders, where the
registered into the EES, the	third country national is not yet
individual file shall be created	registered into the EES, the
without recording biometric data.	individual file shall be created
Biometric data shall be added at the	without recording biometric data.
next border crossing where the EES	Biometric data shall be added at the
is operated with the biometric	next border crossing where the EES
functionalities.	is operated with the biometric
	functionalities.

Article 4	Article 4	Article 4	Provisionally agreed:
Set-up of the EES	Set-up Development and operational	Set-up of the EES	Article 4
	management of the EES		Set-up of the EES
The Agency for the operational	The Agency for the operational	[] 'eu-LISA' shall, in cooperation	Provisionally agreed:
management of large-scale	management of large-scale	with Member States and in	'eu-LISA' shall develop the EES and
information systems in the area of	information systems in the area of	accordance with Article 34, develop	ensure its operational management,
freedom, security and justice ('eu-	freedom, security and justice ('eu-	the EES and ensure its operational	including the functionalities for
LISA') shall develop the EES and	LISA') shall develop the EES and	management, including the	processing biometric data referred to
ensure its operational management,	ensure its operational management,	functionalities for processing	in Article 14(1)(f) and Article 15 (1)
including the functionalities for	including the functionalities for	biometric data referred to in Article	(b) and (c), as well as adequate
processing biometric data referred to	processing biometric data referred to	14(1)(f) and Article 15 (1) (b) and	security.
in Article 14(1)(f) and Article 15.	in Article 14(1)(f) and Article 15, as	<u>(c).</u>	
	well as adequate security.		
Article 5	Article 5	Article 5	Provisionally agreed
Purpose of the EES	Purpose Objectives of the EES	Purpose of the EES	Article 5
			Objectives of the EES
By recording, storing and providing	<i>1.</i> By recording, storing and	By recording, storing and providing	Structure of Article as proposed by
access to Member States to the date,	providing access to Member States	access to Member States to the data	EP to be agreed as part of overall
time and place of the entry and exit	<i>with access</i> to the date, time and	recorded in the EES pursuant to	package.
and refusals of entry of third country	place of the entry and exit and	Articles 14 to 18 [], the objectives	
nationals at external borders, the EES	refusals of entry of third country	of EES shall <u>be</u> :	
shall:	nationals at external borders, the EES		Provisionally agreed:
	shall:		By recording, storing and providing
			access to Member States to the data
			recorded in the EES, the objectives
			of EES shall <u>be</u> :
(a) enhance the efficiency of	(a) enhance the efficiency of	(a) <u>to enhance the efficiency of</u>	Provisionally agreed:
border checks by calculating and	border checks by calculating and	border checks by calculating and	(a) <u>to enhance the efficiency of</u>
monitoring the duration of the	monitoring the duration of the	monitoring the duration of the	border checks by calculating and
authorised stay at entry and exit of	authorised stay at entry and exit of	authorised stay at entry and exit of	monitoring the duration of the

third country nationals admitted for a	third country nationals admitted for a	third country nationals admitted for a	authorised stay at entry and exit of
short stay {or on the basis of a	short stay {or on-the basis of a	short stay [or on the basis of a	third country nationals admitted for a
touring visa};	touring visa};	touring visa],	short stay,
(b) assist in the identification of	(b) assist in the identification of	(b) <u>to</u> assist in the identification	Provisionally agreed:
any person who does not, or does no	any person who does not, or does no	of <u>a third country national</u> [] who	(b) <u>to</u> assist in the identification
longer fulfil the conditions for entry	longer fulfil the conditions for entry	does not, or does no longer fulfil the	of a third country national who does
to or stay on the territory of the	to or stay on the territory of the	conditions for entry to or for short	not, or does no longer fulfil the
Member States;	Member States;	stay [or stay based on touring visa]	conditions for entry to or for short
		on the territory of the Member	stay on the territory of the Member
		States;	States;
(c) allow to identify and detect	(c) allow to identify and detect	(c) <u>to allow to identify and detect</u>	Provisionally agreed:
overstayers (also within the territory)	the identification and detection of	overstayers [] and enable	(c) allow to identify and detect
and enable competent national	overstayers (also within the territory)	competent national authorities of the	the identification and detection of
authorities of the Member States to	and enable competent national	Member States to take appropriate	overstayers (also within the territory)
take appropriate measures including	authorities of the Member States to	measures including to increase the	and enable competent national
to increase the possibilities for return	take appropriate measures including	possibilities for return;	authorities of the Member States to
r r r r r r r r r r r r r r r r r r r	to increase the possibilities for	r,	take appropriate measures including
	return;		to increase the possibilities for
			return;
(d) allow to electronically check	d) allow to electronically check-	(d) to allow to electronically	Provisionally agreed:
refusals of entry in the EES;	refusals of entry in the EES;	check refusals of entry in the EES;	(d) to allow to electronically
		encent forusuus of entry in the LLS,	check refusals of entry in the EES;
(e) free up border control	(e) free up border control resources	(e) []to enable automation of	Provisionally agreed:
resources from performing checks	from performing checks that can be	border [] checks procedure [];	"(e) To enable automation of
that can be automated and enable	automated and enable better focus on	[]	border checks procedures on third
better focus on the assessment of	the assessment of third country		country nationals;"
third country nationals;	nationals enable the automation of		country nutionalis,
tind country nationals,	border checks on third-country		
	nationals;		
(f) enable consulates to have	(f) enable consulates to have	(f) <u>to</u> enable [] <u>visa authorities</u>	Provisionally agreed:
access to information on the lawful	access to information on the lawful	to have access to information on the	(f) to enable [] visa authorities
use of previous visas;	use of previous visas;	lawful use of previous visas,	to have access to information on the
use of previous visas,	use of previous visas,	lawiul use of previous visas,	
			lawful use of previous visas,

(g) inform third country nationals of the duration of their authorised stay;	(g) inform third country nationals of the duration of their-authorised stay;	(g) <u>to</u> inform third country nationals of the duration of their authorised stay;	Provisionally agreed:(g)to inform third countrynationals of the duration of theirauthorised stay;
(h) gather statistics on the entries and exits, refusals of entry and overstays of third country nationals to improve the assessment of the risk of overstays and to support evidence- based Union migration policy making;	(h) gather statistics on the entries and exits, refusals of entry and overstays of third country nationals to improve the assessment of the risk of overstays and to support evidence- based Union migration policy making;	 (h) to gather statistics on the entries and exits, refusals of entry and overstays of third country nationals to improve the assessment of the risk of overstays and to support evidence-based Union migration policy making; (ha) where relevant, to support Member States in operating their national facilitation programmes, including the examination and decision on applications; 	Provisionally agreed:(h)to gather statistics on theentries and exits, refusals of entryand overstays of third countrynationals to improve the assessmentof the risk of overstays and tosupport evidence-based Unionmigration policy making;Provisionally agreed:(ha) where relevant, to supportMember States in operating theirnational facilitation programmes, by:- enabling the national competentauthorities referred to in Article 8e ofRegulation (EU) 2016/399 to haveaccess to information on previousshort stays or refusals of entry for thepurposes of the examination ofapplications for access to nationalfacilitation programmes and theadoption of decisions referred to inArticle 23;- notifying the border authorities thataccess has been granted to thenational facilitation programme.
(i) combat identity fraud;	(i) combat identity fraud;	(i) <u>to</u> combat identity fraud <u>and</u> <u>the misuse of travel documents;</u>	Provisionally agreed:i)to_combat identity fraud andthe misuse of travel documents;

(j) contribute to the prevention, detection and investigation of terrorist offences or of other serious criminal offences;	deleted	(j) <u>to</u> contribute to the prevention, detection and investigation of terrorist offences or of other serious criminal offences;	
 (k) enable identifying and apprehending terrorist, criminal suspects as well as of victims crossing the external borders; 	deleted	(k) []	Provisionally agreed: deleted
(1) enable generating information on travel histories of terrorist, criminal suspects as well as of victims for investigations related to terrorism or serious crime.	deleted	 (1) to enable generating information [] for investigations related to terrorism or <u>other</u> serious <u>criminal offences</u>, [] <u>including</u> <u>identification of perpetrators</u>, <u>suspects and victims of these</u> <u>offences;</u> (m) to facilitate the examination of an application for international protection; 	Provisionally agreed:(1) to enable generatinginformation for investigations relatedto terrorism or other serious criminaloffences, including identification ofperpetrators, suspects and victims ofthese offences;Presidency proposes to drop accessfor asylum purposes
		(n) to facilitate the determination of the responsibility for asylum applications.	Presidency proposes to drop access for asylum purposes
	 1a. By granting access to law enforcement authorities in accordance with the conditions set out in this Regulation, the EES shall: (a) contribute to the prevention, detection and investigation of terrorist offences or of other serious criminal offences; (b) enable identifying and apprehending terrorist and criminal suspects as well as identifying 		

	victims crossing the external		
	borders; (c) enable the generation of		
	<i>information on the travel histories</i>		
	of terrorist and criminal suspects as		
	well as of victims for investigations		
	related to terrorism or serious		
	crime.		
	<i>1b.</i> In order to facilitate border		Covered by para (ha) above.
	crossing for third-country nationals		Deletion provisionally agreed.
	who frequently travel and have been		
	pre-vetted, Member States may		
	establish national facilitation		
	programmes in accordance with		
	Article 8e of Regulation 2016/399		
	and connect them to the EES.		
	The EES shall enable the national		
	competent authorities referred to in		
	Article 8e of Regulation (EU)		
	2016/399 to have access to		
	information on previous short stays		
	or refusals of entry for the purposes		
	of the examination of applications		
	for access to national facilitation		
	programmes and the adoption of		
	decisions referred to in Article 23.		
Article 6	Article 6	Article 6	
Technical architecture of the EES	Technical architecture of the EES	Technical architecture of the EES	
1. The EES shall be composed of:	1. The EES shall be composed	1. The EES shall be composed of:	
	of: (a) <u>a Central System;</u>		
(a) a Central System;	(a) a Central System;	(a) a Central System;	

 (b) a National Uniform Interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the connection of the Central System to the national border infrastructures in Member States; (c) a Secure Communication Channel between the EES Central System and the VIS Central System; (d) a Communication Infrastructure between the Central System and the National Uniform Interfaces. 	 (b) a National Uniform Interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the connection of the Central System to the national border infrastructures in Member States <i>in a</i> <i>secure manner</i>; (c) a Secure Communication Channel between the EES Central System and the VIS Central System; (d) a <i>secure and encrypted</i> Communication Infrastructure between the Central System and the National Uniform Interfaces. (<i>Horizontal change: wording to be</i> <i>applied throughout the text.</i>) 	 (b) a National Uniform Interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the connection of the Central System to the national [] infrastructures in Member States <u>necessary for border checks.</u> (c) a Secure Communication Channel between the EES Central System and the VIS Central System; (d) a Communication Infrastructure between the Central System and the National Uniform Interfaces. 	 Provisionally agreed: (b) a National Uniform Interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the connection of the Central System to the national border infrastructures in Member States <i>in a</i> <i>secure manner</i>; Provisionally agreed: (d) a Communication Infrastructure <i>which shall be secure and encrypted</i> between the Central System and the National Uniform Interfaces. Provisionally agreed: (e) the web service referred to in Article 12; (f) the data repository referred to in Article 57(2) <i>which shall be</i> <i>established at a central level.</i>
2. The EES Central System	2. The EES Central System	2. The EES Central System	 Provisionally agreed: 2. The EES Central System shall be hosted by eu-LISA in its technical sites. It shall provide the functionalities laid down in this
shall be hosted by eu-LISA in its two	shall be hosted by eu-LISA in its two	shall be hosted by eu-LISA in its []	
technical sites. It shall provide the	technical sites. It shall provide the	technical sites. It shall provide the	
functionalities laid down in this	functionalities laid down in this	functionalities laid down in this	
Regulation in accordance with the	Regulation in accordance with the	Regulation in accordance with the	

conditions of availability, quality and	conditions of availability, quality and	conditions of availability, quality and	Regulation in accordance with the
speed pursuant to Article 34(3).	speed pursuant to Article 34(3).	speed pursuant to Article 34(3).	conditions of availability, quality and
speed parsault to millere 5 ((5)).	speed parodance o filice e ((e))		speed pursuant to Article 34(3).
3. Without prejudice to	3. Without prejudice to	3. Without prejudice to	Provisionally agreed:
Commission Decision	Commission Decision	Commission Decision	3. Without prejudice to
$2008/602/EC^{27}$, some hardware and	$2008/602/EC^{27}$, some hardware and	$2008/602/EC^{27}$, some hardware and	Commission Decision
software components of the	software components of the	software components of the	$2008/602/\text{EC}^{27}$, some hardware and
Communication Infrastructure of the	Communication Infrastructure of the	Communication Infrastructure of the	software components of the
EES shall be shared with the	EES shall be shared with the	EES shall be shared with the	Communication Infrastructure of the
communication infrastructure of the	communication infrastructure of the	communication infrastructure of the	EES shall be shared with the
VIS referred to in Article 1(2) of	VIS referred to in Article 1(2) of	VIS referred to in Article 1(2) of	communication infrastructure of the
Decision 2004/512/EC. A separate	Decision 2004/5/12/EC. A separate	Decision 2004/512/EC. [] <u>L</u> ogical	VIS referred to in Article 1(2) of
virtual private network dedicated to	virtual private network dedicated to	separation of VIS and EES data shall	Decision 2004/512/EC. Logical
the EES shall be established in	the EES shall be established in	be ensured.	separation of VIS and EES data shall
addition to the existing private virtual	addition to the existing private virtual		be ensured.
network of the VIS to ensure the	network of the VIS to ensure the		<u></u>
logical separation of VIS and EES	logical separation of VIS and EES		
data.	data.		
Article 7	Article 7	Article 7	Article 7
Interoperability with the VIS			
1. eu-LISA shall establish a	1. eu-LISA shall establish a	1. eu-LISA shall establish a	Provisionally agreed:
Secure Communication Channel	Secure Communication Channel	Secure Communication Channel	(1) Eu-LISA shall establish a
between the EES Central System and	between the EES Central System and	between the EES Central System and	Secure Communication Channel
the VIS Central System to enable	the VIS Central System to enable	the VIS Central System to enable	between the EES Central System and
interoperability between the EES and	interoperability between the EES and	interoperability between the EES and	the VIS Central System to enable
the VIS. Direct consultation between	the VIS. Direct consultation between	the VIS. Direct consultation between	interoperability between the EES and
the systems shall only be possible if	the systems shall only be possible if	the systems shall only be possible if	the VIS. Direct consultation between

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²⁷ Commission Decision 2008/602/EC of 17 June 2008 laying down the physical architecture and requirements of the national interfaces and of the communication infrastructure between the Central VIS and the national interfaces for the development phase (OJ L 194, 23.7.2008, p. 3).

both this Regulation and Regulation (EC) No 767/2008 ²⁸ provide for it.	both this Regulation and Regulation (EC) No 767/2008 ²⁸ provide for it.	both this Regulation and Regulation (EC) No 767/2008 ²⁸ provide for it.	the systems shall only be possible if both this Regulation and Regulation 767/2008 provide for it. <i>Retrieval</i> , <i>importation and updating of visa</i> <i>related data directly from the VIS</i> <i>into the EES shall be an automated</i> <i>process once the operation in</i> <i>question is launched by the</i> <i>authority concerned</i> .
 2. The interoperability requirement shall enable the border authorities using the EES to consult the VIS from the EES in order to: (a) retrieve and import the visa related data directly from the VIS in order to create or update the individual file of a visa holder in the 	 2. The interoperability requirement shall enable the border authorities using the EES to consult the VIS from the EES in order to: (a) retrieve and import the visa related data directly from the VIS in order to create or update the individual file of a visa kolder in the 	 2. The interoperability requirement shall enable the border <u>checks</u> authorities using the EES to consult the VIS from the EES in order to: (a) retrieve and import <u>automatically</u> the visa related data directly from the VIS in order to create or update the <u>entry/exit record</u> 	Provisionally agreed:2. The interoperabilityrequirement shall enable the borderauthorities using the EES to consultthe VIS from the EES in order to:Provisionally agreed:(a) retrieve and import the visarelated data directly from the VIS inorder to create or update the
EES in accordance with Article 13, 14 and 16 of this Regulation and Article 18a of Regulation (EC) No 767/2008;	EES in accordance with Article 13, 14 and 16 of this Regulation and Article 18a of Regulation (EC) No 767/2008;	or the refusal of entry record [] of a visa holder in the EES in accordance with Articles 13, 14 and 16 of this Regulation and Article 18a of Regulation (EC) No 767/2008;	entry/exit record or the refusal of entry record of a visa holder in the EES in accordance with Articles 13, 14 and 16 of this Regulation and Article 18a of Regulation (EC) No 767/2008;
(b) retrieve and import the visa related data directly from the VIS in order to update the EES in the event that a visa is annulled, revoked or extended in accordance with Article 17 of this Regulation and Articles 13,	(b) retrieve and import the visa related data directly from the VIS in order to update the EES <i>record</i> in the event that a visa is annulled, revoked or extended in accordance with Article 17 of this Regulation and	(b) retrieve and import <u>automatically</u> the visa related data directly from the VIS in order to update the <u>entry/exit record</u> [] in the event that a visa is annulled, revoked or extended in accordance	 Provisionally agreed: (b) retrieve and import the visa related data directly from the VIS in order to update the <u>entry/exit record</u> in the event that a visa is annulled, revoked or extended in accordance

28 Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60–81).

14 and 18a of Regulation (EC) No 767/2008;	Articles 13, 14 and 18a of Regulation (EC) No 767/2008;	with Article 17 of this Regulation and Articles 13, 14 and 18a of	with Article 17 of this Regulation and Articles 13, 14 and 18a of
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,		Regulation (EC) No 767/2008;	Regulation (EC) No 767/2008;
(c) verify the authenticity and	(c) verify <i>at the external borders</i>	(c) verify pursuant to Article 21	Provisionally agreed:
validity of the visa or whether the	the authenticity and validity of the	of this Regulation and Article 18(2)	(c) verify pursuant to Article 21
conditions for entry to the territory of	visa or whether the conditions for	of Regulation (EC) No 767/2008 the	of this Regulation and Article 18(2)
the Member States in accordance	entry to the territory of the Member	authenticity and validity of the visa	of Regulation (EC) No 767/2008 the
with Article 6 of Regulation (EU)	States in accordance with Article 6 of	or whether the conditions for entry to	authenticity and validity of the visa
2016/399 are fulfilled pursuant to	Regulation (EU) 2016/399 are	the territory of the Member States in	or whether the conditions for entry to
Article 21 of this Regulation and	fulfilled pursuant to Article 21 of this	accordance with Article 6 of	the territory of the Member States in
Article 18(2) of Regulation (EC) No	Regulation and Article 18(2) of	Regulation (EU) 2016/399 are	accordance with Article 6 of
767/2008;	Regulation (EC) No 767/2008;	fulfilled []	Regulation (EU) 2016/399 are
			fulfilled;
(d) verify at the external borders	(d) verify at the external borders	(d) verify at the [] borders <u>at</u>	Provisionally agreed:
whether a visa exempt third country	whether a visa exempt third country	which the EES is operated whether a	(d) verify at the borders <u>at which</u>
national has been previously	national has been previously	visa exempt third country national	the EES is operated whether a visa
registered in the VIS in accordance	registered in the VIS in accordance	has been previously registered in the	exempt third country national has
with Article 21 of this Regulation	with Article 21 of this Regulation	VIS in accordance with Article 21 of	been previously registered in the VIS
and Article 19a of Regulation (EC)	and Article 19a of Regulation (EC)	this Regulation and Article 19a of	in accordance with Article 21 of this
No 767/2008;	No 767/2008;	Regulation (EC) No 767/2008;	Regulation and Article 19a of
	/		Regulation (EC) No 767/2008;
(e) where the identity of a visa	(e) where the identity of a visa	(e) where the identity of a visa	Provisionally agreed:
holder cannot be verified against the	holder cannot be verified against the	holder cannot be verified against the	(e) where the identity of a visa holder
EES, verify at the external borders	EES, verify at the external borders	EES, verify at the [] borders <u>at</u>	is cannot be verified using
the identity of a visa holder with	the identity of a visa holder with	which the EES is operated the	fingerprints against the EES, ,verify
fingerprints against the VIS in	fingerprints against the VIS in	identity of a visa holder with	at the [] borders <u>at which the EES</u>
accordance with Article 21 of this	accordance with Article 21 of this	fingerprints against the VIS in	is operated the identity of a visa
Regulation and Article 18(6) of	Regulation and Article 18(6) of	accordance with Article 21 of this	holder with fingerprints against the
Regulation (EC) No 767/2008.	Regulation (EC) No 767/2008.	Regulation and Article 18(6) of	VIS in accordance with Article 21 of
		Regulation (EC) No 767/2008.	this Regulation and Article $18(6)$ of
			Regulation (EC) No 767/2008.
3. The interoperability	3. The interoperability	3. The interoperability	Provisionally agreed:

requirement shall enable the visa	requirement shall enable the visa	requirement shall enable the visa	3. The interoperability
authorities using the VIS to consult	authorities using the VIS to consult	authorities using the VIS to consult	requirement shall enable the visa
the EES from the VIS in order to:	the EES from the VIS in order to:	the EES from the VIS in order []:	authorities using the VIS to consult
			the EES from the VIS in order:
(a) examine visa applications and	(a) examine visa applications and	(a) <u>to</u> examine visa applications	Provisionally agreed:
adopt decisions relating to those	adopt decisions relating to those	and adopt decisions relating to those	(a) <u>to examine visa applications</u>
applications in accordance with	applications in accordance with	applications in accordance with	and adopt decisions relating to those
Article 22 of this Regulation and	Article 22 of this Regulation and	Article 22 of this Regulation and	applications in accordance with
Article 15(4) of Regulation (EC) No	Article 15(4) of Regulation (EC) No	Article 15(4) of Regulation (EC) No	Article 22 of this Regulation and
767/2008;	767/2008;	767/2008;	Article 15(4) of Regulation (EC) No
			767/2008;
		(aa) for the Member States which	Provisionally agreed:
		do not yet apply Schengen acquis in	(aa) for the Member States which
		full but operate the EES, to examine	do not yet apply Schengen acquis in
		applications for a national short stay	full but operate the EES, to examine
		visa and to adopt decisions relating	applications for a national short stay
		to those applications;	visa and to adopt decisions relating
			to those applications;
(b) update the visa related data in	(b) update the visa related data in	(b) <u>to update automatically</u> the	Provisionally agreed:
the EES in the event that a visa is	the EES in the event that a visa is	visa related data in the entry/exit	(b) <u>to</u> update the visa related data
annulled, revoked or extended in	annulled, revoked or extended in	<u>record</u> [] in the event that a visa is	in the <u>entry/exit record</u> [] in the
accordance with Article 17 of this	accordance with Article 17 of this	annulled, revoked or extended in	event that a visa is annulled, revoked
Regulation and Articles 13 and 14 of	Regulation and Articles 13 and 14 of	accordance with Article 17 of this	or extended in accordance with
Regulation (EC) No 767/2008.	Regulation (EC) No 767/2008.	Regulation and Articles 13 and 14 of	Article 17 of this Regulation and
		Regulation (EC) No 767/2008.	Articles 13 and 14 of Regulation
			(EC) No 767/2008.
			Provisionally agreed:
			4. For the operation of the EES
			webservice referred to in Article 12,
			the separate read-only database
			referred to in Article 12(4) of
			[Regulation establishing an
			Entry/Exit System (EES)] shall be on

			a daily basis updated by the VIS via a one-way extraction of the minimum necessary subset of VIS data.
Article 8	Article 8	Article 8	
Access to the EES for entering,	Access to the EES for entering,	Access to the EES for entering,	
amending, deleting and consulting	amending, deteting and consulting	amending, deleting and consulting	
data	data	data	
1. Access to the EES for	1. Access to the EES for	1. Access to the EES for	
entering, amending, deleting and	entering, amending, deleting and	entering, amending, deleting and	
consulting the data referred to in	consulting the data referred to in	consulting the data referred to in	
Articles 13, 14, 15, 16, 17 and 18	Articles 13, 14, 15, 16, 17 and 18	Articles 13, 14, 15, 16, 17 and 18	
shall be reserved exclusively to duly	shall be reserved exclusively to duly	shall be reserved exclusively to duly	
authorised staff of the authorities of	authorised staff of the authorities of	authorised staff of the authorities of	
each Member State which are	each Member State which are	each Member State which are	
competent for the purposes laid down	competent for the purposes laid down	competent for the purposes laid down	
in Articles 21 to 32. That access shall	in Articles 21 to 32. That access shall	in Articles 21 to 32. That access shall	
be limited to the extent needed for	be limited to the extent needed for	be limited to the extent needed for	
the performance of the tasks in	the performance of the tasks in	the performance of the tasks in	
accordance with this purpose, and	accordance with this purpose, and	accordance with this purpose, and	
proportionate to the objectives	proportionate to the objectives	proportionate to the objectives	
pursued.	pursued.	pursued.	
2. Each Member State shall	2. Each Member State shall	2. Each Member State shall	Presidency proposes to drop access
designate the competent national	designate the competent national	designate the competent national	for asylum purposes.
authorities, including border, visa	authorities, including border, visa	authorities which shall be [] border	Provisionally agreed (except
and immigration authorities. The	and immigration authorities. The	<u>check</u> , visa [], immigration, <u>and</u>	reference to asylum purposes):
duly authorised staff shall have	duly authorised staff shall have	determining authorities [as well as	
access to the EES to enter, amend,	access to the EES to enter, amend,	the competent authorities referred to	2. Each Member State shall
delete or consult data. Each Member	delete or consult data. Each Member	in Article 35(1) of Regulation (EU)	designate the competent national
State shall communicate a list of	State shall communicate a list of	$604/2013^{28a}$], for the purposes of this	authorities which shall be []
these authorities to eu-LISA without	these authorities to eu-LISA without	<u>Regulation</u> . The duly authorised staff	border, visa [], immigration, [and
delay. That list shall specify for	delay. That list shall specify for	shall have access to the EES to enter,	determining]-authorities_[as well as
which purpose each authority shall	which purpose each authority shall	amend, delete or consult data. Each	the competent authorities referred to

have access to the data in the EES.	have access to the data in the EES.	Member State shall communicate a	in Article 35(1) of Regulation (EU)
Within three months after the EES	Within three months after the EES	list of these authorities to eu-LISA	604/2013 ²⁸⁸ for the purposes of this
has started operations in accordance	has started operations in accordance	without delay. That list shall specify	<u>Regulation</u> . The duly authorised staff
with Article 60, a consolidated list of	with Article 60, a consolidated list of	for which purpose each authority	shall have access to the EES to enter,
those authorities shall be published in	those authorities shall be published in	shall have access to the data in the	amend, delete or consult data. Each
the Official Journal of the European	the Official Journal of the European	EES.	Member State shall communicate a
Union. Where there are amendments	Union. Where there are amendments	Within three months after the EES	list of these authorities to eu-LISA
thereto, eu-LISA shall publish an	thereto, eu-LISA shall publish an	has started operations in accordance	without delay. That list shall specify
updated consolidated list once a year.	updated consolidated list once a year.	with Article 60, a consolidated list of	for which purpose each authority
		those authorities shall be published in	shall have access to the data in the
		the Official Journal of the European	EES.
		Union. Where there are amendments	
		thereto, eu-LISA shall publish an	
		updated consolidated list once a year.	(Last part of $8(2)$ deleted as covered
			in Article 59)

28a Regulation (EU) N° 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person, OJ L 180, 29.6.2013, p. 31-59.

<u>3.</u> <u>The authorities which are</u>	Provisionally agreed:
entitled to consult or access the data	<u>3.</u> <u>The authorities which are</u>
stored in the EES in order to prevent,	entitled to consult or access the data
detect and investigate terrorist	stored in the EES in order to prevent,
offences or other serious criminal	detect and investigate terrorist
offences shall be designated in	offences or other serious criminal
accordance with the provisions of	offences shall be designated in
Chapter IV.	accordance with the provisions of
	Chapter IV.

Article 9	Article 9	Article 9	
General principles	General principles	General principles	
1. Each competent authority	1. Each competent authority		
authorised to access the EES shall	authorised to access the EES shall	1. Each competent authority authorised to access the EES shall	
ensure that the use of the EES is	ensure that the use of the EES is	ensure that the use of the EES is	
necessary, appropriate and	necessary, appropriate and	necessary, appropriate and	
proportionate.	proportionate.	proportionate.	
2. Each competent authority	2. Each competent authority	2. Each competent authority	Provisionally agreed:
shall ensure that in using the EES, it	shall ensure that in using the EES, it	shall ensure that in using the EES, it	2. Each competent authority
does not discriminate against third	does not discriminate against third	does not discriminate against third	shall ensure that the use of the EES,
country nationals on the grounds of	country nationals on the grounds of	country nationals on the grounds of	including the capturing of biometric
sex, racial or ethnic origin, religion	sex, racial or race, colour, ethnic or	sex, racial or ethnic origin, religion	data, shall be in accordance with the
or belief, disability, age or sexual	social origin, genetic features,	or belief, disability, age or sexual	safeguards laid down in the Council
orientation and that it fully respects	language, religion or belief, political	orientation and that it fully respects	of Europe's Convention for the
human dignity and the integrity of	or any other opinion, membership	human dignity and the integrity of	Protection of Human Rights and
the person. Particular attention shall	of a national minority, property,	the person. Particular attention shall	Fundamental Freedoms, in the
be paid to the specific situation of	<i>birth</i> , disability, age or sexual	be paid to the specific situation of	Charter of Fundamental Rights of the
children, the elderly and persons with	orientation and that it fully respects	children, the elderly and, persons	European Union and in the United
a disability. In particular, when	human dignity and the integrity of	with a disability. []	Nations Convention on the Rights of
retaining a child's data, the best	the person. Particular attention shall		the Child. In particular, when
interest of the child shall be a	be paid to the specific situation of		<u>capturing</u> a child's data, the best
primary consideration.	children, the elderly and persons with		interest of the child shall be a
	a disability. In particular, when		primary consideration.
	retaining a child's data, the best		
	interest of the child shall be a		
	primary consideration.		
	2a. Border guards shall, when		Covered in compromise under
	capturing biometric data for the		paragraph 2. Deletion of this
	EES, fully respect human dignity, in		paragraph <mark>provisionally agreed</mark> .
	particular in the event of difficulties		
	encountered in the capturing of		

	facial images or the taking of		
	fingerprints.	A .: 1 10	
Article 10	Article 10	Article 10	
Automated calculator and obligation	Automated calculator and obligation	Automated calculator and obligation	
to inform third country nationals on	to inform third country nationals on	to inform third country nationals on	
the remaining authorised stay	the remaining authorised stay	the remaining authorised stay	
1. The EES shall include an	1. The EES shall include an	1. The EES shall include an	Provisionally agreed:
automated calculator that indicates	automated calculator that indicates	automated calculator that indicates	1. The EES shall include an
the maximum authorised duration of	the maximum authorised duration/of	the maximum [] duration of	automated calculator that indicates
stay in accordance with Article 6(1)	stay in accordance with Article $\beta(1)$	<u>authorised</u> stay, [] for third country	the maximum duration of authorised
of Regulation (EU) 2016/399 for	of Regulation (EU) 2016/399 for	nationals registered in the EES. []	stay, for third country nationals
third country nationals registered in	third country nationals registered in	The calculator shall not apply to third	registered in the EES.
the EES admitted for a short stay {or	the EES admitted for a short stay {or	country nationals who are []	The calculator shall not apply to third
on the basis of a touring visa}.	on the basis of a touring $\sqrt{3}$ isa}.	members of the family of a Union	country nationals:
The calculator shall not apply to third	The calculator shall not apply to third	citizen to whom Directive	i) who are family members of a
country nationals who are family	country nationals who are family	2004/38/EC applies or of a national	Union citizen to whom Directive
members of a Union citizen to whom	members of a Union citizen to whom	of a third country enjoying the right	2004/38/EC applies or of a national
Directive 2004/38/EC applies or of a	Directive 2004/38/EC applies or of a	of free movement under Union law	of a third country enjoying the right
national of a third country enjoying	national of a third country enjoying	and who do not hold a residence card	of free movement equivalent to that
the right of free movement under	the right of free movement under	referred to under Directive	of Union citizens under an agreement
Union law and who do not hold a	Union law and who do not hold a	2004/38/EC.	between the Union and its Member
residence card referred to under	residence card referred to under		States on the one hand and a third
Directive 2004/38/EC.	Directive 2004/38/EC.		country on the other; and
			ii) who do not hold a residence
			card referred to under Directive
			2004/38/EC or a residence permit
			pursuant to Regulation (EC) No
			1030/2002.
2. The automated calculator	2. The automated calculator	2. The automated calculator	Provisionally agreed:
shall:	shall:	shall <u>inform the competent</u>	2. The automated calculator
		authorities:	shall inform the competent
			authorities:

(a) inform the competent	(a) inform the competent	a) [] on entry, of the	Provisionally agreed:
authorities of the authorised length of	authorities of the authorised length of	maximum [] duration of authorised	a) <u>on entry</u> , of the <u>maximum</u>
stay on entry and whether the	stay on entry and whether the	stay of third country nationals []	duration of authorised stay of third
number of authorised entries of the	number of authorised entries of the	and whether the number of	country nationals and whether the
single or double entry visas have	single or double entry visas have	authorised entries of short stay visa	number of authorised entries of short
been previously used;	been previously used;	issued for [] single or double entry	stay visa issued for single or double
		[] have been previously used	entry have been previously used
		(b) during checks or verifications	Provisionally agreed:
		carried out within the territory of the	(b) during checks or verifications
		Member States, of duration of	carried out within the territory of the
		remaining authorised stay or overstay	Member States, of duration of
		of the third country nationals;	remaining authorised stay or overstay
			of the third country nationals;
(b) identify third country	(b) identify third country	(c) [] upon exit, of any	Provisionally agreed:
nationals upon exit who have	nationals upon exit who have	overstay of third country nationals	(c) upon exit, of any overstay of
overstayed.	overstayed.	[] <u>;</u>	third country nationals;
		(d) when examining and deciding	Provisionally agreed:
		on visa applications, of the maximum	(d) when examining and deciding
		remaining duration of authorised stay	on visa applications, of the maximum
		based on intended entry dates.	remaining duration of authorised stay
			based on intended entry dates.
3. The border authorities shall	3. The border authorities shall	3. [] <u>Any third country</u>	Provisionally agreed:
inform the third country national of	inform the third country national of	national shall have the right to ask	3. The border authorities shall
the maximum number of days of	the maximum number of days of	border check authorities during	inform the third country national of
authorised stay which shall take into	authorised stay which shall take into	border checks at entry about the	the maximum number of days of
account the number of entries and the	account the number of entries and the	maximum remaining number of days	authorised stay which shall take into
length of stay authorised by the visa	length of stay authorised by the visa	of his/her authorized stay, which	account the number of entries and the
{or the touring visa}, in accordance	{or the touring visa}, in accordance	shall take into account the number of	length of stay authorised by the visa,
with Article 8(9) of Regulation (EU)	with Article 8(9) of Regulation (EU)	entries and the length of stay	in accordance with Article 8(9) of
2016/399.	2016/399.	authorised by the visa {or the touring	Regulation (EU) 2016/399. <u><i>The</i></u>
		visa}, [] and be provided with such	information may be provided either

		information by the border check authorities on that occasion.	by the border guard at the moment of the border check or by means of an equipment installed at the border crossing point enabling the third countriy nationals to consult the webservice as referred to in Article 12 (1).
4. Stays in Member States which are not yet fully applying the Schengen <i>acquis</i> in accordance with their respective Acts of Accession shall not be taken into account in the calculation of the duration of the authorised stay in the Schengen area. Those Member States shall register the stays of third country nationals in the EES. The automated calculator in the system shall not however compute stays in Member States which are not yet fully applying the Schengen <i>acquis</i> as part of the authorised length of stay.	deleted	4. [] With regard to third country nationals subject to visa requirement, staying on the basis of a visa ^{28b} or a national short stay visa, in the Member States which do not yet apply the Schengen acquis in full but operate the EES, the calculator shall not indicate the authorised stay based on the visa or the national short visa. In this case the calculator shall only verify compliance with the overall limit of 90 days in any 180- day period and with the period of validity of the visa.	Aware of the importance of the single calculator for the Council, the Presidency proposes to maintain this position. That said, delegations are also invited to indicate any margin of manoeuvre since the EP has consistently favoured separate calculators in the negotiations so far.
		5. The automated calculator shall apply also for short stays based on a visa with limited territorial validity issued on the basis of Article 25(1)(b) of Regulation (EC) No 810/2009. In this case, the calculator shall take into account the authorised stay as defined by such visa, irrespective of whether his/her	Provisionally agreed:5.The automated calculatorshall apply also for short stays basedon a visa with limited territorialvalidity issued on the basis of Article25(1)(b) of Regulation (EC) No810/2009. In this case, the calculatorshall take into account the authorisedstay as defined by such visa,

	cumulative stay exceeds 90 days within any 180-days.	irrespective of whether his/her cumulative stay exceeds 90 days
		within any 180-days.

28b

Decision No 565/2014/EU of the European Parliament and of the Council of 15 May 2014 introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Croatia, Cyprus and Romania of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period and repealing Decisions No 895/2006/EC and No 582/2008/EC.

A .: 1 11	A .: 1 11	A 1 11	
Article 11	Article 11	Article 11	
Information mechanism	Information mechanism	Information mechanism	
1. The EES shall include a	1. The EES shall include a	1. The EES shall include a	Provisionally agreed:
mechanism that shall automatically	mechanism that shall automatically	mechanism that shall automatically	1. The EES shall include a
identify which entry/exit records do	identify which entry/exit records do	identify which entry/exit records do	mechanism that shall automatically
not have exit data immediately	not have exit data immediately	not have exit data immediately	identify which entry/exit records do
following the date of expiry of the	following the date of expiry of the	following the date of expiry of the	not have exit data immediately
authorised length of stay and identify	authorised length of stay and identify	authorised [] stay and identify	following the date of expiry of the
records for which the maximum stay	records for which the maximum	records for which the maximum	authorised stay and identify records
allowance has been exceeded.	<i>authorised</i> stay allowance has been	<u>authorised</u> stay [] <u>was</u> exceeded.	for which the maximum <u>authorised</u>
	exceeded.		stay was exceeded.
		1a. For the third country	Provisionally agreed:
		nationals who perform their border	1a. For the third country
		crossing on the basis of valid	nationals who perform their border
		Facilitated Transit Document (FTD)	crossing on the basis of valid
		issued in accordance with Regulation	Facilitated Transit Document (FTD)
		(EC) 693/2003, the EES shall include	issued in accordance with Regulation
		a mechanism that shall automatically	(EC) 693/2003, the EES shall include
		identify which entry/exit records do	a mechanism that shall automatically
		not have exit data immediately	identify which entry/exit records do
		following the time of expiry of the	not have exit data immediately
		duration of authorised stay and	following the time of expiry of the
		identify records for which the	duration of authorised stay and
		maximum period of authorised stay	identify records for which the
		allowance has been exceeded.	maximum period of authorised stay
			allowance has been exceeded.

2. A list generated by the system containing the data referred to in Article 14 and 15 of all identified overstayers shall be available to the designated competent national authorities.	containing the data referred to in Article 14 and 15 of all identified overstayers shall be available to the designated competent national authorities.	2. A list generated by the system containing the data referred to in Article 14 and 15 of all identified overstayers shall be available to the designated competent national authorities <u>according to Article 8(2)</u> <u>in order for them to adopt the</u> <u>appropriate measures including to</u> <u>detect the overstayer and where</u> <u>possible and applicable contributing</u> <u>to the return of the overstayer</u> .	Provisionally agreed: A list generated by the system containing the data referred to in Article 14 and 15 of all identified overstayers shall be available to the designated competent national authorities according to Article 8(2) in order for them to adopt <i>the</i> appropriate measures. <i>including</i> , <i>where applicable the measures</i> <i>provided for in Directive</i> 2008/115/EC of the European Parliament and of the Council.
	2a. In accordance with Article 31, Member States shall be automatically informed three months in advance of the scheduled deletion of data on overstayers in order for them to adopt the appropriate measures.		EP amendment withdrawn.
Article 12	Article 12	Article 12	
Web service	Web service	Web service	
1. In order to enable third	1. In order to enable third	1. In order to enable third	
country nationals to verify at any	country nationals to verify at any	country nationals to verify at any	Provisionally agreed:
moment the remaining authorised	moment the remaining authorised	moment the remaining_[]	1. In order to enable third

low oth of story o actions intermed	length of story a so intermet	moring and a -f 1f	constant actionals to
length of stay, a secure internet	length of stay, a secure internet	maximum number of days of	country nationals to verify at any
access to a web service hosted by eu-	access to a web service hosted by eu-	authorised stay, a secure internet	moment the remaining days of
LISA in its two technical sites shall	LISA in its two technical sites shall	access to a web service hosted by eu-	authorised stay, a secure internet
allow those third country nationals to	allow those third country nationals	LISA in its-[] technical sites shall	access to a web service hosted by eu-
provide the data required pursuant to	to provide the data required pursuant	allow those third country nationals to	LISA in its technical sites shall allow
Article 14(1)(b) together with the	to Article $14(1)(b)$ together with the	provide the type, number and three	those third country nationals to
anticipated entry and exit dates. On	anticipated entry and exit dates. On	letter code of the issuing country of	provide the data required pursuant to
that basis, the web service shall	that basis, the web service shall	the travel document [] together	Article 14(1)(b) the type and number
provide them with an OK/NOT OK	provide them with an OK/NOT OK	with the anticipated entry and exit	of the travel document or documents
answer. The web service shall use a	answer. The web service shall use a	dates or for third country nationals	and three letter code of the issuing
separate read-only database updated	separate read-only database updated	who are within the territory of the	country of the travel document or
on a daily basis via a one-way	on a daily basis via a one-way	Member States, the intended exit	documents together with the
extraction of the minimum necessary	extraction of the minimum necessary	date. On that basis, the web service	anticipated entry and exit date. On
subset of EES data.	subset of EES data. eu-LISA shall be	shall provide them with an OK/NOT	that basis, the web service shall
	the controller responsible for the	OK answer, including information on	provide them with an OK/NOT OK
	security of the web service, for the	the maximum remaining number of	answer, including and the
	security of the personal data it	days of authorised stay. The web	information on the remaining number
	contains and the process to extract	service shall use a separate read-only	of days of authorised stay. The web
	the personal data from the central	database updated on a daily basis via	service shall use a separate read-only
	system into the web service. eu-	a one-way extraction of the minimum	database updated on a daily basis via
	LISA shall perform an information	necessary subset of EES data.	a one-way extraction of the minimum
	security risk assessment in order to		necessary subset of EES data.
	define the specific security needs of		
	the web service.		
2. Carriers may use the secure	2. Carriers may use the secure	2. Carriers may use [] the web	
internet access to the web service	internet access to the web service	service referred to in paragraph 1 to	Provisionally agreed:
referred to in paragraph 1 to verify	referred to in paragraph 1 to verify	verify whether or not third country	2. In view of fulfilling their
whether or not third country	whether or not third country	nationals holding a <u>short stay visa</u>	obligations under Article 26(1)(b) of
nationals holding a single or double	nationals holding a single or double	issued for single or double entry []	the Convention implementing the
entry visa have already used the visa.	entry visa have already used the visa.	have already used the <u>short stay</u> visa.	Schengen Agreement, carriers shall
The carrier shall provide the data	The carrier shall provide the data	The carrier shall provide the data	use the secure internet access to the
listed in Article 14(1)(d). The web	listed in Article 14(1)(d). The web	contained in the Machine Readable	web service referred to in paragraph
service shall on that basis provide the	service shall on that basis provide the	Zone of the travel document [].	2aa to verify whether or not third
service shall on that basis provide the	service shall on that basis provide the		Zau to voring whether of not unit

carriers with an OK/NOT OK	carriers with an OK/NOT OK	The web service shall on that basis	country nationals holding a single or
answer. Carriers may store the	answer. Carriers shall establish an	provide the carriers with an OK/NOT	double entry visa have already used
information sent and the answer	authentication scheme to ensure	OK answer. Carriers may store the	the number of entries authorised by
received.	that only authorised staff may	information sent and the answer	their visa. The carrier shall provide
	access the web service. Carriers may	received. The OK/NOT OK answer	the data listed under Article $14(1)(a)$,
	store the information sent and the	cannot be regarded as a decision to	(b) and (c). The web service shall on
	answer received <i>for a maximum of</i>	authorise or refuse entry in	that basis provide the carriers with an
	48 hours, following which the data	accordance with Regulation (EU)	OK/NOT OK answer. Carriers may
	shall be automatically deleted, for	2016/399.	store the information sent and the
	the sole purpose of informing the		answer received in accordance to the
	third country nationals concerned.		applicable law. Carriers shall
			establish an authentication scheme to
			ensure that only authorised staff may
			access the web service. The
			OK/NOT OK answer cannot be
			regarded as a decision to authorise or
			refuse entry in accordance with
			Regulation (EU) 2016/399.
			2a. For the purpose of implementing
			Article 26(2) of the Convention
			implementing the Schengen
			Agreement and/ or for the purpose of
			resolving any potential dispute
			arising from Article 26 of the
			Convention implementing the
			Schengen Agreement, eu-LISA shall
			keep logs of all data processing
			operations carried out within the
			website by the carriers. Those logs
			shall show the date and time of each
			operation, the data used for
			interrogation, the data transmitted by

			the webservice and the name of the carrier. Each log shall be stored for two years. The logs shall be protected by appropriate measures against unauthorised access.
			2aa. The web service shall use a separate read-only database updated on a daily basis via a one-way extraction of the minimum necessary subset of EES and VIS data . eu- LISA shall be the controller responsible for the security of the web service, for the security of the personal data it contains and the process to extract the personal data into the separate read-only database-
3. Detailed rules on the conditions for operation of the web service and the data protection and	3. Detailed rules on the conditions for operation of the web service and the data protection and security rules applicable to the web	3. Detailed rules on the conditions for operation of the web service and the data protection and	into the separate read-only database?
security rules applicable to the web service shall be adopted in accordance with the examination procedure referred to in Article 61(2).	security filles applicable to the web service shall be adopted in accordance with the examination procedure referred to in Article 61(2).	security rules applicable to the web service shall be adopted in accordance with the examination procedure referred to in Article 61(2).	

CHAPTER II	CHAPTER II	CHAPTER II	Provisionally agreed:
Entry and use of data by border	Entry and use of data by border	Entry and use of data by <u>competent</u>	
authorities	authorities	[] authorities	CHAPTER II
			Entry and use of data by
			<u>competent</u> authorities
Article 13	Article 13	Article 13	
Procedures for entering data in the	Procedures for entering data in the	Procedures for entering data in the	
EES	EES	EES	
1. Border authorities shall	1. Border authorities shall	1. Border <u>check</u> authorities shall	Provisionally agreed:
verify, in accordance with Article 21,	verify, in accordance with Article 21,	verify, in accordance with Article 21,	1. Border authorities shall
whether a previous individual file has	whether a previous individual file has	whether a previous individual file has	verify, in accordance with Article 21,
been created in the EES for the third	been created in the EES for the third	been created in the EES for the third	whether a previous individual file has
country national as well as their	country national as well as their	country national as well as []	been created in the EES for the third
identity. Where a third country	identity. Where a third country	his/her identity. Where a third	country national as well as his/her
national uses a self-service system	national uses a self-service system	country national uses a self-service	identity. Where a third country
for pre-enrolment of data or for the	for pre-enrolment of data or for the	system for pre-enrolment of data or	national uses a self-service system
performance of border checks	performance of border checks	for the performance of border checks	for pre-enrolment of data or for the
[should this self-service system not	[should this self-service system not	[], a verification may be carried	performance of border checks, a
be defined or explained?], a	be defined or explained?], a	out through the self service system.	verification may be carried out
verification may be carried out	verification may be carried out		through the self service system.
through the self service system.	through the self service system.		
2. Where a previous individual	2. Where a previous individual	2. Where a previous individual	Provisionally agreed:
file has been created, the border	file has been created, the border	file has been created, the border	2. Where a previous individual
authority shall, if necessary, update	authority shall, if necessary, update	check authority shall, if necessary,	file has been created, the border
the individual file data, enter an	the individual file data, enter an	update the individual file data,	authority shall, if necessary, update
entry/exit record for each entry and	entry/exit record for each entry and	referred to in Articles 14, 15 and 16	the individual file data, referred to in
exit in accordance with Articles 14	exit in accordance with Articles 14	as applicable, enter an entry [] or	Articles 14, 15 and 16 as applicable,
and 15 or, where applicable, a refusal	and 15 or, where applicable, a refusal	exit record for each entry and exit in	enter an entry or exit record for each
of entry record in accordance with	of entry record in accordance with	accordance with Articles 14 and 15	entry and exit in accordance with
Article 16. That record shall be	Article 16. That record shall be	or, where applicable, a refusal of	Articles 14 and 15 or, where
linked to the individual file of the	linked to the individual file of the	entry record in accordance with	applicable, a refusal of entry record

third country national concerned.	third country national concerned.	Article 16. That record shall be	in accordance with Article 16. That
Where applicable, the data referred	Where applicable, the data referred	linked to the individual file of the	record shall be linked to the
to in Article 17(1) shall be added to	to in Article 17(1) shall be added to	third country national concerned.	individual file of the third country
	the individual file and the data	5	national concerned. Where
the individual file and the data		Where applicable, the data referred $(1, 2)$ and (2) and	
referred to in Article 17(3) and (4)	referred to in Article 17(3) and (4)	to in Article $17(1)$, <u>(1a)</u> , [] (3) and	applicable, the data referred to in
shall be added to the entry/exit	shall be added to the entry/exit	(4) shall be added to the entry/exit	Article 17(1), [(1a)], (3) and (4) shall
record of the third country national	record of the third country national	record of the third country national	be added to the entry/exit record of
concerned. The different travel	concerned. The different travel	concerned. The different travel	the third country national concerned.
documents and identities used	documents and identities used	documents and identities used	The different travel documents and
legitimately by a third country	legitimately by a third country	legitimately by a third country	identities used legitimately by a third
national shall be added to the third	national shall be added to the third	national shall be added to the third	country national shall be added to the
country national's individual file.	country national's individual file.	country national's individual file.	third country national's individual
Where a previous file has been	Where a previous file has been	Where a previous individual file has	file.
registered and the third country	registered and the third country	been registered and the third country	Where a previous file has been
national presents a travel document	national presents a <i>valid</i> travel	national presents a travel document	registered and the third country
which differs from the one which	document which differs from the one	which differs from the one which	national presents a <i>valid</i> travel
was previously registered, the data	which was previously registered, the	was previously registered, the data	document which differs from the one
refered under Article 14(1)(f) shall	data referred under referred to in	referred under Article 14(1)(f) and	which was previously registered, the
also be updated if the facial image	Article 14(1)(f) shall also be updated	Article 15(1) (b) shall also be	data referred under referred to in
reccorded in the chip of the new	if the facial image reccorded	updated [].	Article 14(1)(f) and Article 15(1) (b)
travel document can be extracted	<i>recorded</i> in the chip of the new travel		shall also be updated <i>in accordance</i>
electronically.	document can be extracted		with Art. 13a.
	electronically.		
3. Where it is necessary to	3. Where it is necessary to	<u>3.</u> Where it is necessary to []	Provisionally agreed:
create or update the individual file	create or update the individual file	<u>enter</u> or update the [] <u>entry/exit</u>	<u>3.</u> Where it is necessary to []
data of a visa holder, the border	data of a visa holder, the border	record data of a visa holder, the	<u>enter</u> or update the [] <u>entry/exit</u>
authorities may retrieve and import	authorities may retrieve and import	border <u>check</u> authorities may retrieve	record data of a visa holder, the
the data provided for in Article 14(1)	the data provided for in Article 14(1)	and import the data provided for in	border authorities may retrieve and
(d), (e) and (g) directly from the VIS	(d) , (e) and <i>to</i> (g) directly from the	Article 14([] <u>2) (c)</u> , (d), (e), (f) and	import the data provided for in
in accordance with Article 18a of	VIS in accordance with Article 18a	[g] directly from the VIS in	Article 14([] <u>2) (c)</u> , (d), (e) and (f)
Regulation (EC) No 767/2008.	of Regulation (EC) No 767/2008.	accordance with Article <u>7 of this</u>	directly from the VIS in accordance
		Regulation and Article 18a of	with Article 7 of this Regulation and
		Regulation (EC) No 767/2008.	Article 18a of Regulation (EC) No

			767/2008.
4. In the absence of a previous	4. In the absence of a previous	4. In the absence of a previous	Provisionally agreed:
registration of a third country	registration of a third country	registration of a third country	4. In the absence of a previous
national in the EES, the border	national in the EES, the border	national in the EES, the border <u>check</u>	registration of a third country
authority shall create the individual	authority shall create the individual	authority shall create the individual	national in the EES, the border
file of the person by entering the data	file of the person by entering the data	file of the person by entering the data	authority shall create the individual
referred to in Articles 14, 15 and 16	referred to in Articles 14, 15 and 16	referred to in Articles $14(1)$, (6),	file of the person by entering the data
as applicable.	as applicable.	15(1) and $16(1)$ as applicable.	referred to in Articles $14(1)$, (6),
			15(1) and $16(1)$ as applicable.
5. Where a third country	5. Where a third country	5. Where a third country	Provisionally agreed:
national uses a self-service system	national uses a self-service system	national uses a self-service system	5. Where a third country
for pre-enrolment of data, Article 8c	for pre-enrolment of data, Article 8c	for pre-enrolment of data, Article 8c	national uses a self-service system
of Regulation (EU) 2016/399 shall	of Regulation (EU) 2016/399 shall	of Regulation (EU) 2016/399 shall	for pre-enrolment of data, Article 8c
apply. In that case, the third country	apply. In that case, the third country	apply. In that case, the third country	of Regulation (EU) 2016/399 shall
national may pre-enrol the individual	national may pre-enrol the individual	national may pre-enrol the individual	apply. In that case, the third country
file data or, if applicable, the data	file data or, if applicable, the data	file data or, if applicable, the data <u>in</u>	national may pre-enrol the individual
that needs to be updated. The data	that needs to be updated. The data	the entry/exit record that needs to be	file data or, if applicable, the data <u>in</u>
shall be confirmed by the border	shall be confirmed by the border	updated. The data shall be confirmed	the entry/exit record that needs to be
guard when the decision to authorise	guard when the decision to authorise	by the border check authorities []	updated. The data shall be confirmed
or to refuse entry has been taken in	or to refuse entry has been taken in	when the decision to authorise or to	by the border <u>authorities</u> when the
accordance with Regulation (EU)	accordance with Regulation (EU)	refuse entry has been taken in	decision to authorise or to refuse
2016/399. The verification referred	2016/399. The verification referred	accordance with Regulation (EU)	entry has been taken in accordance
to in paragraph 1 of this Article shall	to in paragraph 1 of this Article shall	2016/399. The verification referred	with Regulation (EU) 2016/399. The
be carried out through the self	be carried out through the self	to in paragraph 1 of this Article shall	verification referred to in paragraph 1
service system. The data listed in	service system. The data listed in	be carried out through the self	of this Article shall be carried out
Article $14(1)(d)$, (e) and (g) may be	Article 14(1), (d) , (e) and <i>to</i> (g) may	service system. The data listed in	through the self service system. The
retrieved and imported directly from	be retrieved and imported directly	Article $14([]2)$ <u>(c)</u> , (d), (e), (f) and	data listed in Article $14(\underline{2})$ (c), (d),
the VIS.	from the VIS.	[g] may be retrieved and imported	(e) and (f) may be retrieved and
		<u>automatically</u> [] from the VIS.	imported from the VIS.
6. Where a third country	6. Where a third country	6. Where a third country	
national uses a self-service system	national uses a self-service system	national uses a self-service system	
for the performance of the border	for the performance of the border	for the performance of the border	
checks, Article 8d of Regulation	checks, Article 8d of Regulation	checks, Article 8d of Regulation	

(EU) 2016/399 shall apply. In that	(EU) 2016/399 shall apply. In that	(EU) 2016/399 shall apply. In that	
case, the verification referred to in	case, the verification referred to in	case, the verification referred to in	
		· ·	
paragraph 1 of this Article shall be	paragraph 1 of this Article shall be	paragraph 1 of this Article shall be	
carried out through the self service	carried out through the self service	carried out through the self service	
system.	system.	system.	
7. Where a third country	7. Where a third country	7. Where a third country	
national uses an e-gate for crossing	national uses an e-gate for crossing	national uses an e-gate for crossing	
the external border, Article 8d of	the external border, Article 8d of	the external border, Article 8d of	
Regulation (EU) 2016/399 shall	Regulation (EU) 2016/399 shall	Regulation (EU) 2016/399 shall	
apply. In that case, the corresponding	apply. In that case, the corresponding	apply. In that case, the corresponding	
registration of the entry/exit record	registration of the entry/exit record	registration of the entry/exit record	
and the linking of that record to the	and the linking of that record to the	and the linking of that record to the	
concerned individual file shall be	concerned individual file shall be	concerned individual file shall be	
carried out through the e-gate.	earried out through the e-gate.	carried out through the e-gate.	
8. Where it is necessary to	8. Where it is necessary to	8. Where it is necessary to	
create an individual file or to update	create an individual file or to update	create an individual file or to update	Provisionally agreed
the facial image referred to in Article	the facial image referred to in Article	the facial image referred to in Article	deletion of this paragraph and
14(1)(f), the facial image can only be	14(1)(f), the facial image can only be	14(1)(f) and Article $15(1)(b)$, the	creation of new article 13a
extracted electronically from the	extracted electronically from the	facial image shall be taken live and	
electronic Machine Readable Travel	electronic Machine Readable Travel	where this is not possible []	
Documents (eMRTD) and inserted	Documents (eMRTD) and inserted	extracted electronically from the	
into the individual file where it has	into the individual file where it has	electronic Machine Readable Travel	
been verified that the facial image	been verified that the facial image	Documents (eMRTD) and inserted	
recorded in the chip of the eMRTD	recorded in the chip of the eMRTD	into the individual file after	
corresponds to the live facial image	corresponds to the live facial image	electronic verification [] that the	
of the concerned third country	of the concerned third country	facial image recorded in the chip of	
national.	national.	the eMRTD corresponds to the live	
		facial image of the concerned third	
		country national.	
	Y	9. Without prejudice to Article	Provisionally agreed:
		18 of this Regulation and Article	9. Without prejudice to Article
		12(3) of Regulation (EU) 2016/399,	18 of this Regulation and Article
		if the authorised stay of a third	12(3) of Regulation (EU) 2016/399,
		ii uiv aumoriseu siay or a umu	12(3) 01 Regulation ($10)$ 2010($3)$),

	country national who is present on	if the authorised stay of a third
	the territory of a Member State starts	country national who is present on
	directly after the stay based on	the territory of a Member State starts
	residence permit or long-stay visa	directly after the stay based on
	and no individual file has been	residence permit or long-stay visa
	created, the competent authorities	and no individual file has been
	according to Article 8(2) may create	created, the competent authorities
	an individual file and the entry/exit	according to Article 8(2) may create
	record by entering the data referred	the third country national may
	to in Articles 14(1), (2) and (6) and	request the competent authorities
	15(1). Instead of the data referred to	according to Article 8(2) to create
	in Article 14(2)(a), they shall insert	the individual file and the entry/exit
	the date of start of the authorised stay	record by entering the data referred
	and, instead of the data in Article	to in Articles 14(1), (2) and (6) and
	14(2)(b), they shall insert the	15(1). Instead of the data referred to
	authority that authorised the	in Article 14(2)(a), they shall insert
	authorised stay.	the date of start of the authorised stay
		and, instead of the data in Article
		$\overline{14(2)(b)}$, they shall insert the
		authority that authorised the
		authorised stay.
		Provisionally agreed :
		Article 13a
		Facial image of third country
		nationals
		1. Where it is necessary to create an
		individual file or to update the facial
		image referred to in Article 14(1)(f)
		and Article $15(1)(b)$, the facial image
		shall be taken live.
		Shun ee aren nye.
		2. By way of derogation to paragraph

	1, in exceptional cases, where the
	quality and resolution specifications
	set for the enrolment of the live facial
	image in the EES cannot be met, the
	facial image may be extracted
	electronically from the chip of the
	electronic Machine Readable Travel
	Documents (eMRTD). In such cases,
	the facial image shall only be
	inserted into the individual file after
	electronic verification that the facial
	image recorded in the chip of the
	eMRTD corresponds to the live
	facial image of the concerned third
	country national.
	3. Each Member State shall transmit
	once a year a report on the
	application of paragraph 2 to the
	Commission. The report shall include
	the number of third-country nationals
	concerned and an explanation of the
	exceptional cases faced.
	4. Where in the future the quality
	standards of the facial image stored
	in the VIS is such that it enables
	biometric matching, the Commission
	shall produce a report on the
	possibility to use the facial image
	stored in the VIS at borders and
	within the territory for the

			verification of the identity of third country nationals subject to a visa requirement, without storing such facial image into the EES. The Commission shall transmit the report to the European Parliament and the Council. On the basis of that report, the Commission may, using its right of initiative in accordance with the Treaty, make the necessary proposals, including proposals to amend this Regulation and / or Regulation (EC) No 767/2008, as regards the use of the facial image of third country nationals stored in the VIS for the purposes mentioned above.
Article 14	Article 14	Article 14	Provisionally agreed:
Personal data for visa holders	Personal data for <i>third country</i>	Personal data for [] <u>third country</u>	Article 14
	nationals subject to a visa holders	national subject to a visa	Personal data for <u>third country</u>
	requirement to cross the external borders	<u>requirement</u>	<u>national subject to a visa</u> <u>requirement</u>
1. The border authority shall	Image: Dorders 1. The border authority shall	1. At the borders at which the	Council's structure of the Article
create the individual file of the visa	create the individual file of the visa	EES is operated the border checks	accepted
holding third country national by	holding third country national third	authority shall create the individual	Provisionally agreed:
entering the following data:	country national subject to a visa	file of the [] third country national	1. <u>At the borders at which the</u>
	requirement to cross the external	subject to a visa requirement by	EES is operated the border checks
	borders by entering the following	entering the following data:	authority shall create the individual
	data:		file of the [] third country national
			subject to a visa requirement by
L			entering the following data:

(a) surname (family name); first	a) surname (family name); first	(a) surname (family name); first	
name(s) (given names); date of birth;	name(s) (given names); date of birth;	name(s) (given names); date of birth;	
nationality or nationalities; sex;	nationality or nationalities; sex;	nationality or nationalities; sex;	
(b) type, number and three letter	(b) type <i>and</i> number <i>of the travel</i>	(b) type, number and three letter	Provisionally agreed:
code of the issuing country of the	document or documents and three	code of the issuing country of the	(b) type <i>and</i> number <i>of the travel</i>
travel document or documents;	letter code of the issuing country of	travel document or documents;	document or documents and three
	the travel document or documents;		letter code of the issuing country of
			the travel document or documents;
(c) the date of expiry of the	(c) the date of expiry of the	(c) the date of expiry of the	
validity of the travel document(s);	validity of the travel document(s);	validity of the travel document(s);	
(d) the short stay visa sticker	(d) the short stay visa sticker	(d) []	Provisionally agreed:
number, including the three letter	number, including the three letter		(d) []
code of the issuing Member State,	code of the issuing Member State,		
the type of visa, the date of end of	the type of visa, the date of end of		
maximum duration of the stay as	maximum duration of the stay as		
authorised by the visa which needs to	authorised by the visa which needs to		
be updated at each entry and the date	be updated at each entry and the date		
of expiry of the validity of the visa, if	of expiry of the validity of the visa, if		
applicable;	applicable;		
(e) at the first entry on the basis	(e) at the first entry on the basis	(e) []	Provisionally agreed:
of the short stay visa, the number of	of the short stay visa, the number of		(e) []
entries and the authorised period of	entries and the authorised period of		(0) []
stay as indicated on the visa sticker;	stay as indicated on the visa sticker;		
(f) the facial image, where	(f) the facial image <i>with</i>	(f) the facial image, where	Provisionally agreed:
possible extracted electronically from	sufficient image resolution and	possible <u>taken live</u> [], and where	(f) the facial image <i>which shall</i>
the eMRTD, and where this is not	quality to be used in automated	this is not possible, [] <u>extracted</u>	<i>have sufficient image resolution</i>
possible, taken live;	<i>biometric matching</i> , where possible	electronically from the eMRTD;	and quality to be used in automated
	extracted electronically from the		biometric matching, in accordance
	•		3,
	eMRTD <i>or the VIS</i> , and where this		with Article 13a;
	is not possible, taken live;		

(g) the visa sticker number of the	(g) the visa sticker number of the	(g) []	Provisionally agreed:
touring visa, the type of visa and the	touring visa, the type of visa and the		(g) []
date of expiry of the validity of the	date of expiry of the validity of the		
visa, if applicable.	visa, if applicable.		
2. On each entry of the visa	2. On each entry of the visa	2. On each entry of [] <u>a third</u>	Provisionally agreed:
holding third country national, the	holding third country national third	country national subject to a visa	
following data shall be entered in an	country national subject to a visa	requirement, at a border at which the	2. On each entry of <u>a third</u>
entry/exit record. That record shall	requirement to cross the external	EES is operated, the following data	country national subject to a visa
be linked to the individual file of that	<i>borders</i> , the following data shall be	shall be entered in an entry/exit	requirement, at a border at which the
third country national using the	entered in an entry/exit record .That	record. That record shall be linked to	EES is operated, the following data
individual reference number created	record which shall be linked to the	the individual file of that third	shall be entered in an entry/exit
by the EES upon creation of that file:	individual file of that third country	country national using the individual	record. That record shall be linked to
	national using the individual	reference number created by the EES	the individual file of that third
	reference number created by the EES	upon creation of that file:	country national using the individual
	upon creation of that file:		reference number created by the EES
			upon creation of that file:
(a) date and time of the entry;	(a) date and time of the entry;	(a) date and time of the entry;	
(b) the border crossing point and	(b) the border crossing point and	(b) the border crossing point and	
authority that authorised the entry;	authority that authorised the entry;	authority that authorised the entry;	
		(c) if applicable, the status of the	Provisionally agreed:
		person indicating that it is a third	(c) if applicable, the status of the
		country national who is member of	person indicating that it is a third
		family of a Union citizen to whom	country national who:
		Directive 2004/38/EC applies or a	i) who is family member of a
		national of a third country enjoying	Union citizen to whom Directive
		the right of free movement under	2004/38/EC applies or of a national
		<u>Union law and who do not hold a</u>	of a third country enjoying the right
		residence card referred to under	of free movement equivalent to that
		Directive 2004/38/EC.	of Union citizens under an agreement
			between the Union and its Member
			States on the one hand and a third

	country on the other; and ii) who do not hold a residence card referred to under Directive
	2004/38/EC or a residence permit
	pursuant to Regulation (EC) No
	1030/2002.
(d) the short stay visa sticker	Provisionally agreed:
number, including the three letter	(d) the short stay visa sticker
code of the issuing Member State,	number, including the three letter
the type of short stay visa, the date of	code of the issuing Member State,
end of maximum duration of the stay	the type of short stay visa, the date of
as authorised by the short stay visa	end of maximum duration of the stay
which needs to be updated at each	as authorised by the short stay visa
entry and the date of expiry of the	which needs to be updated at each
validity of the short stay visa, if	entry and the date of expiry of the
applicable;	<u>validity of the short stay visa, if</u> applicable;
(e) at the first entry on the basis	Provisionally agreed:
of the short stay visa, the number of	(e) at the first entry on the basis
entries and the duration of stay as	of the short stay visa, the number of
authorised by the short stay visa as	entries and the duration of stay as
indicated on the short stay visa	authorised by the short stay visa as
sticker;	indicated on the short stay visa
	sticker;
(f) if applicable, the information	Provisionally agreed:
indicating that the visa has been	(f) if applicable, the information
issued with limited territorial	indicating that the visa has been
validity, on the basis of Article	issued with limited territorial
25(1)(b) of the Regulation (EC)	validity, on the basis of Article
<u>810/2009;</u>	25(1)(b) of the Regulation (EC)
	<u>810/2009;</u>
(g) [the touring visa sticker	Deletion of reference to touring visa
number of the touring visa, the type	Provisionally agreed:

		of touring visa and the date of expiry	(g) [the touring visa sticker
		of the validity of the touring visa, if	number of the touring visa, the type
		applicable.]	of touring visa and the date of expiry
			of the validity of the touring visa, if
			applicable.]
3. On each exit, the following	3. On each exit, the following	3. On each exit, <u>at a border at</u>	Provisionally agreed:
data shall be entered in the entry/exit	data shall be entered in the entry/exit	which the EES is operated the	3. On each exit, <u>at a border at</u>
record linked to the individual file of	record linked to the individual file of	following data shall be entered in the	which the EES is operated the
that visa holding third country	that visa holding third country	entry/exit record linked to the	following data shall be entered in the
national:	national:	individual file of that [] third	entry/exit record linked to the
		country national subject to a visa	individual file of that third country
		requirement:	national subject to a visa
			requirement:
(a) date and time of the exit;	(a) date and time of the exit;	(a) date and time of the exit;	
(b) the border crossing point of	(b) the border crossing point of	(b) the border crossing point of	
the exit.	the exit.	the exit.	
		(c) Where a third country	Provisionally agreed:
		national subject to a visa requirement	(c) Where a third country
		uses a different visa than the visa	national subject to a visa requirement
		recorded in the last entry record, the	uses a different visa than the visa
		data of the entry/exit record listed in	recorded in the last entry record, the
		paragraph 2(d), (e), (f) and [(g)] shall	data of the entry/exit record listed in
		be updated accordingly.	paragraph 2(d), (e), (f) and [(g)] shall
			be updated accordingly.
4. Where there is no exit data	4. Where there is no exit data	4. Where there is no exit data	Provisionally agreed:
immediately following the date of	immediately following the date of	immediately following the date of	4. Where there is no exit data
expiry of the authorised length of	expiry of the <i>duration of</i> authorised	expiry of the authorised [] stay, the	immediately following the date of
stay, the entry/exit record shall be	length of stay, the entry/exit record	entry/exit record shall be identified	expiry of the authorised stay, the
identified with a mark or flag by the	shall be identified with a mark or flag	with a mark or flag by the system	entry/exit record shall be identified
system and the data of the visa	by the system and the data of the visa	and the data of the [] third country	with a mark or flag by the system
holding third country national	holding third country national	national subject to a visa requirement	and the data of the third country
identified as an overstayer shall be	identified as an overstayer shall be	is identified as an overstayer shall be	national subject to a visa requirement
entered into the list referred to in	entered into the list referred to in	entered into the list referred to in	is identified as an overstayer shall be

Article 11.	Article 11.	Article 11.	entered into the list referred to in
5. In order to create the individual file of a visa holding third country national the data provided for in paragraph 1 (d), (e) and (g) may be retrieved and imported directly from the VIS by the border authority in accordance with Article 18a of Regulation (EC) No 767/2008	 5. In order to create or update the entry/exit record on the individual file of a visa holding third country national third country national subject to a visa requirement to cross the external borders the data provided for in paragraph 1 (d) , (e) and to (g) may be retrieved and imported directly from the VIS by the border authority in accordance with Article 18a of Regulation (EC) No 767/2008. 5a. Where a visa holding third country national benefits from the national facilitation programme of a Member State in accordance with Article 8e of Regulation (EU) 2016/399, the Member State concerned may insert a notification in the individual file of that third country national specifying the national facilitation programme concerned. 	5. In order to [] <u>enter or</u> <u>update</u> the [] <u>entry/exit record</u> of a [] third country national <u>subject to</u> <u>a visa requirement</u> the data provided for in paragraph <u>2</u> (c), (d), (e), (f) and [(g)] may be retrieved and imported <u>automatically</u> [] from the VIS by the border <u>check</u> authority in accordance with Article 18a of Regulation (EC) No 767/2008.	Article 11. Provisionally agreed: 5. In order to <u>enter or update</u> the <u>entry/exit record</u> of a third country national <u>subject to a visa requirement</u> the data provided for in paragraph <u>2</u> (c), (d), (e) and (f) and may be retrieved and imported from the VIS by the border authority in accordance with Article 18a of Regulation (EC) No 767/2008. Covered under paragraph (6) below.
		6. Where relevant, Member States shall insert a notification in the individual file if the third country national benefits from their national facilitation programme in accordance with Article 8e of Regulation (EU) 2016/399 specifying the Member State's national facilitation	Provisionally agreed:6.Where relevant, MemberStates shall insert a notification in the individual file if the third country national benefits from their national facilitation programme in accordance with Article 8e of Regulation (EU) 2016/399 specifying the Member

		programme concerned. The	State's national facilitation
		notification shall only be available to	programme concerned.
		the Member State implementing such	
		a programme and to those Member	
		States having concluded an	
		agreement with the Member State	
		which granted the access as referred	
		to under Article 8e(4) of Regulation	
		<u>(EU) 2016/399.</u>	
		7. The specific provisions set	Provisionally agreed:
		out in Annex II shall apply for third	7. <u>The specific provisions set</u>
		country nationals who perform their	out in Annex II shall apply for third
		border crossing on the basis of a	country nationals who perform their
		valid Facilitated Transit Document	border crossing on the basis of a
		(FTD) issued in accordance with	valid Facilitated Transit Document
		Regulation (EC) 693/2003.	(FTD) issued in accordance with
			<u>Regulation (EC) 693/2003.</u>
Article 15	Article 15	Article 15	
Personal data for third country	Personal data for third country	Personal data for third country	
nationals exempt from the visa	nationals exempt from the visa	nationals exempt from the visa	
obligation	obligation	obligation	
1. For third country nationals	1. For third country nationals	1. [] <u>The border check</u>	Provisionally agreed:
exempt from the visa obligation, the	exempt from the visa obligation, the	authority shall [] create the	1. <u>The border authority shall</u>
border authority shall enter into their	border authority shall enter into their	individual file of third country	create the individual file of third
individual file the data provided for	individual file the data provided for	nationals exempt from visa	country nationals exempt from visa
in Article 14(1)(a), (b), (c) and (f). In	in Article 14(1)(a), (b), (c) and (f). In	obligation by entering following data	obligation by entering following data
addition it shall enter into that	addition it shall enter into that		
individual file the four fingerprint of	individual file the four fingerprint of		
the index, middle-finger, ring-finger	the index, middle-finger, ring-finger		
and little finger from the right hand,	and little finger from the right hand,		
and where this is not possible the	and where this is not possible the		
same fingers from the left hand, in	same fingers from the left hand, in		
accordance with the specifications	accordance with the specifications		

for the resolution and use of fingerprints adopted by the Commission in accordance with Article 61(2). For third country nationals exempt from the visa obligation, Articles 14(2) to 14(4) shall apply.	for the resolution and use of fingerprints adopted by the Commission in accordance with Article 61(2). For third country nationals exempt from the visa obligation, Articles 14(2) to 14(4) shall apply <i>accordingly</i> .	a) [] provided for in Article 14(1) (a), (b) and (c) []; b) the facial image, where possible taken live, and where this is not possible, extracted electronically from the eMRTD; c) [] fingerprint data[];	Provisionally agreed: a) provided for in Article 14(1) (a), (b) and (c); Provisionally agreed: (b) the facial image which shall have sufficient image resolution and quality to be used in automated biometric matching, in accordance with Article 13a; Provisionally agreed: c) fingerprint data; Fingerprint data shall consist of data relating to the four fingerprints of the index, middle finger, ring finger and little finger from the right hand, where present, and otherwise the corresponding fingerprints from the
			corresponding fingerprints from the left hand. Fingerprint data shall have sufficient resolution and quality to be used in automated biometric matching.
		<u>d)</u> where relevant data provided for in Article 14(6).	Provisionally agreed:d)where relevant data providedfor in Article 14(6).
		1a.For third country nationalsexempt from the visa obligation,	Compromise text provisionally agreed:

		Articles 14(2)(a), (b) and (c), 14(3)	<u>1a.</u> For third country nationals
		(a) and (b) and 14(4) shall apply.	exempt from the visa obligation,
			Articles 14(2)(a), (b) and (c), 14(3)
			(a) and (b) and 14(4) shall apply
			mutatis mutandis.
2. Children under the age of 12	2. Children under the age of 12	2. Children under the age of 12	Provisionally agreed:
shall be exempt from the requirement	shall be exempt from the requirement	shall be exempt from the requirement	2. Children under the age of 12
to give fingerprints for legal reasons.	to give fingerprints for legal reasons.	to give fingerprints-[].	shall be exempt from the requirement
			to give fingerprints.
3. Persons for whom	3. Persons for whom	3. Persons for whom	Provisionally agreed:
fingerprinting is physically	fingerprinting is physically	fingerprinting is physically	3. Persons for whom
impossible shall be exempt from the	impossible shall be exempt from the	impossible shall be exempt from the	fingerprinting is physically
requirement to give fingerprints for	requirement to give fingerprints for	requirement to give fingerprints [].	impossible shall be exempt from the
factual reasons.	factual reasons.	However, where the physical	requirement to give fingerprints.
However, where the physical	However, where the physical	impossibility is of a temporary	However, where the physical
impossibility is of a temporary	impossibility is of a temporary	nature, this fact shall be recorded in	impossibility is of a temporary
nature, the person shall be required to	nature, the person shall be required to	the system and the person shall be	nature, this fact shall be recorded in
give the fingerprints at the	give the fingerprints at the	required to give the fingerprints at	the system and the person shall be
subsequent entry. The border	subsequent entry. The border	the exit or the subsequent entry. The	required to give the fingerprints at
authorities shall be entitled to request	authorities shall be entitled to request	border check authorities shall be	the exit or the subsequent entry. The
further clarification on the grounds	further clarification on the grounds	entitled to request further	border authorities shall be entitled to
for the temporary impossibility to	for the temporary impossibility to	clarification on the grounds for the	request further clarification on the
provide fingerprints.	provide fingerprints. Such grounds	temporary impossibility to provide	grounds for the temporary
Member States shall ensure that	shall be stored in the individual file	fingerprints. This information shall	impossibility to provide fingerprints.
appropriate procedures guaranteeing	until such time as the person is able	be deleted from the system once the	This information shall be deleted
the dignity of the person are in place	to give fingerprints but no longer	fingerprints have been given.	from the system once the fingerprints
in the event of difficulties	than the retention period for that	Member States shall ensure that	have been given.
encountered in capturing	individual file.	appropriate procedures guaranteeing	Member States shall ensure that
fingerprints.	Member States shall ensure that	the dignity of the person are in place	appropriate procedures guaranteeing
	appropriate procedures guaranteeing	in the event of difficulties	the dignity of the person are in place
	the dignity of the person are in place	encountered in capturing	in the event of difficulties
	in the event of difficulties	fingerprints.	encountered in capturing
	encountered in capturing		fingerprints.

	fingerprints.		
4. Where the person concerned	4. Where the person concerned	4. Where the person concerned	Provisionally agreed:
is exempt from the requirement to	is exempt from the requirement to	is exempt from the requirement to	4. Where the person concerned
give fingerprints for legal or factual	give fingerprints for legal or factual	give fingerprints [] pursuant to	is exempt from the requirement to
reasons pursuant to paragraphs 2 or	reasons pursuant to paragraphs 2 or	paragraphs 2 or 3, the specific data	give fingerprints [] pursuant to
3, the specific data field shall be	3, the specific data field shall be	field shall be marked as 'not	paragraphs 2 or 3, the specific data
marked as 'not applicable'. The	marked as 'not applicable'. The	applicable'. []	field shall be marked as 'not
system shall allow a distinction to be	system shall allow a distinction to be	TI T	applicable'.
made between the cases where	made between the cases where		-FF
fingerprints are not required to be	fingerprints are not required to be		
provided for legal reasons and the	provided for legal reasons and the		
cases where they cannot be provided	cases where they cannot be provided		
for factual reasons.	for factual reasons. The fact that the		
	physical impossibility to give		
	fingerprints is of a temporary nature		
	shall be recorded.		
Article 16	Article 16	Article 16	
Personal data for third country	Personal data for third country	Personal data for third country	
nationals who have been refused	nationals who have been refused	nationals who have been refused	
entry	entry	entry	
1. Where a decision has been	1. Where a decision has been	1. Where a decision has been	Provisionally agreed:
taken by the border authority, in	taken by the border authority, in	taken by the border <u>check</u> authority,	1. Where a decision has been
accordance with Article 14 of	accordance with Article 14 of	in accordance with Article 14 of	taken by the border authority, in
Regulation (EU) 2016/399 and	Regulation (EU) 2016/399 and	Regulation (EU) 2016/399 and	accordance with Article 14 of
Annex V thereto, to refuse the entry	Annex V thereto, to refuse the entry	Annex V thereto, to refuse the entry	Regulation (EU) 2016/399 and
of a third country national referred to	of a third country national referred to	of a third country national referred to	Annex V thereto, to refuse the entry
in Article 2(2) of this Regulation to	in Article 2(2) of this Regulation to	in Article 2(2) of this Regulation to	of a third country national referred to
the territories of the Member States,	the territories of the Member States,	the territories of the Member States,	in Article 2(2) of this Regulation to
and where no previous file has been	and where no previous file has been	and where no previous file has been	the territories of the Member States,
registered in the EES for that third	registered in the EES for that third	registered in the EES for that third	and where no previous file has been
country national the border authority	country national the border authority	country national the border <u>check</u>	registered in the EES for that third
shall create an individual file in	shall create an individual file in	authority shall create an individual	country national, the border authority
which it shall enter the data required	which it shall enter the	file in which it shall enter:	shall create an individual file in

pursuant to Article 14(1) in the case of visa holding third country nationals and the data required pursuant to Article 15(1) in the case of visa exempt third country nationals.	<i>alphanumeric</i> data required pursuant to Article 14(1) in the case of visa holding third country nationals and the <i>alphanumeric</i> data required pursuant to Article 15(1) in the case of visa exempt third country nationals.		which it shall enter:
		(a) the data required pursuant to Article 14(1) and, where relevant, the data referred to under Article 14(6) in the case of [] third country nationals <u>subject to a visa</u> requirement []	Provisionally agreed: a) in the case of third country nationals subject to a visa requirement: the alphanumeric data required pursuant to Article 14(1) and, where relevant, the data referred to under Article 14(6)
		(b) [] the data required pursuant to Article 15(1) in the case of visa exempt third country nationals <u>and in the case of a third</u> <u>country national subject to a visa</u> <u>requirement if the border check</u> <u>authority has verified that the third</u> <u>country national is not registered in</u> <u>the VIS.</u>	 <i>Provisionally agreed:</i> b) in the case of visa exempt third country nationals: the alphanumeric data required pursuant to Article 15(1)
			Provisionally agreed: 1a. In the specific case where the third country national is refused entry on the basis of a reason corresponding to letter(s) B, D, [H and/ or I] of Annex V, Part B of Regulation (EU) 2016/399 and where no previous file has been registered in the EES for that third country

	national, the border authority shall
	create an individual file in which it
	shall enter the alphanumeric data
	referred to in paragraph 1 as well as
	the following data:
	a) in the case of third country
	nationals subject to a visa
	requirement: the facial image
	referred to in Article 14(1) (f)
	b) in the case of a visa exempt third
	country nationals the biometric data
	required pursuant to Article 15(1) (b)
	and (c)
	c) in the case of third country
	nationals subject to a visa
	requirement who are not registered in
	the VIS: the facial image referred to
	in Article 14(1) (f) and the
	fingerprint data as referred to Article
	15(1) (c)
	Proposed additional paragraph by
	way of compromise in relation to
	para 1a, concerning the reference to
	H, while insisting on retaining the
	reference to I:
	1aa, By way of derogation to
	paragraph 1a, where the reason
	corresponding to letter H applies
	and the biometric data of the third
	country national are recorded in
	the SIS alert resulting in the
	refusal of entry, the biometric data

2. In order to create the individual file of visa holder third country nationals, the data provided	 2. In order to create the individual file of visa holder third country nationals, the data provided 	If a third country national refuses to provide biometric data, the border check authority shall create the individual file without biometric data. If the third country national possesses an eMRTD the facial image shall be extracted from this eMRTD.	of the third country national shall not be entered in the EES.(the following paragraph would be renumbered accordingly)Provisionally agreed: laa. If a third country national is refused entry on the basis of a reason corresponding to letter J of Annex V, Part B of Regulation (EU) 2016/399, the border check authority shall create the individual file without biometric data. If the third country national possesses an eMRTD the facial image shall be extracted from this eMRTD.Provisionally agreed: []
for in Article 14 (1) (d), (e) and (g) may be retrieved and imported directly from the VIS into the EES by the competent border authority in accordance with Article 18a of Regulation (EC) No 767/2008.	for in Article 14 (1) (d), (e) and (g) may be retrieved and imported directly from the VIS into the EES by the competent border authority in accordance with Article 18a of Regulation (EC) No 767/2008.		
3. For both visa holding and visa exempt third country nationals the following data shall be entered in a separate refusal of entry record:	3. For both visa holding and visa exempt third country nationals the following data shall be entered in a separate refusal of entry record:	2. For both <u>third country</u> <u>nationals subject to a visa</u> <u>requirement []</u> and visa exempt third country nationals the following data shall be entered in a separate refusal of entry record:	Provisionally agreed:2.For both third countrynationals subject to a visarequirement and visa exempt thirdcountry nationals the following datashall be entered in a separate refusalof entry record:

(a) the date and time of refusal of	(a) the date and time of refusal of	(a) the date and time of refusal of	
entry,	entry,	entry,	
(b) the border crossing point,	(b) the border crossing point,	(b) the border crossing point,	
(c) the authority that refused the	(c) the authority that refused the	c) the authority that refused the	
entry,	entry,	entry,	
(d) the letter(s) corresponding to	(d) the letter(s) corresponding to	(d) the letter(s) corresponding to	
the reason(s) for refusing entry, in	the reason(s) for refusing entry, in	the reason(s) for refusing entry, in	
accordance with Annex V, Part B of	accordance with Annex V, Part B of	accordance with Annex V, Part B of	
Regulation (EU) 2016/399.	Regulation (EU) 2016/399.	Regulation (EU) 2016/399.	
		In addition, for third country	Provisionally agreed:
		nationals subject to a visa	In addition, for third country
		requirement the data provided for in	nationals subject to a visa
		Article 14(2)(d), (e), (f) and [(g)]	requirement the data provided for in
		shall be entered in the refusal of	Article 14(2)(d), (e), (f) and [(g)]
		entry record.	shall be entered in the refusal of
		In order to create or update the	entry record.
		refusal of entry record of third	In order to create or update the
		country nationals subject to a visa	refusal of entry record of third
		requirement, the data provided for in	country nationals subject to a visa
		Article 14(2)(d), (e), (f) and [(g)] may	requirement, the data provided for in
		be retrieved and imported	Article 14(2)(d), (e), (f) and [(g)] may
		automatically from the VIS into the	be retrieved and imported from the
		EES by the competent border checks	VIS into the EES by the competent
		authority in accordance with Article	border checks authority in
		18a of Regulation (EC) No	accordance with Article 18a of
		<u>767/2008.</u>	Regulation (EC) No 767/2008.
4. Where a previous file already	4. Where a previous file already	3. [] <u>The record</u> provided for	Provisionally agreed:
exists in the EES the data provided	exists in the EES the data provided	in paragraph 2 shall be <u>linked</u> [] to	<u>3.</u> <u>The record provided for in</u>
for in paragraph 2 shall be added to	for in paragraph 2 shall be added to	[] <u>the individual file of the third</u>	paragraph 2 shall be <u>linked</u> to <u>the</u>
the existing file.	the existing file.	country national.	individual file of the third country
			national.

Article 17	Article 17	Article 17	Provisionally agreed:
Data to be added where an	Data to be added where an	Data to be added where an	Article 17
authorisation to stay is revoked,	authorisation to stay is revoked,	authorisation <u>for short</u> [] stay is	Data to be added where an
annulled or extended	annulled or extended	revoked, annulled or extended	authorisation <u>for short</u> stay is
			revoked, annulled or extended
1. Where a decision has been	1. Where a decision has been	1. Where a decision has been	Provisionally agreed:
taken to revoke or annul an	taken to revoke or annul an	taken to revoke or annul an	1. Where a decision has been
authorisation to stay or a visa or to	authorisation to stay or a visa or to	authorisation for short stay [] or a	taken to revoke or annul an
extend the duration of the authorised	extend the duration of the authorised	visa or to extend the duration of the	authorisation for short stay or a visa
stay or visa, the competent authority	stay or visa, the competent authority	authorised stay or visa, the	or to extend the duration of the
that has taken the decision shall add	that has taken the decision shall add	competent authority that has taken	authorised stay or visa, the
the following data to the individual	the following data to the individual	the decision shall add the following	competent authority that has taken
file:	file:	data to the latest relevant entry/exit	the decision shall add the following
		<u>record []</u> :	data to the latest relevant entry/exit
			record:
(a) the status information	(a) the status information	(a) the status information	Provisionally agreed:
indicating that the authorisation to	indicating that the authorisation to	indicating that the authorisation for	(a) the status information
stay or the visa has been revoked or	stay or the visa has been revoked or	short [] stay or the visa has been	indicating that the authorisation <u>for</u>
annulled or that the duration of the	annulled or that the duration of the	revoked or annulled or that the	short stay or the visa has been
authorised stay or the visa has been	authorised stay or the visa has been	duration of the authorised_stay or the	revoked or annulled or that the
extended;	extended;	visa has been extended;	duration of the authorised stay or the
			visa has been extended;
(b) the identity of the authority	(b) the identity of the authority	(b) the identity of the authority	Provisionally agreed:
that revoked or annulled the	that revoked or annulled the	that revoked or annulled the	(b) the identity of the authority
authorisation to stay or the visa or	authorisation to stay or the visa or	authorisation for short [] stay or	that revoked or annulled the
extended the duration of the	extended the duration of the	the visa or extended the duration of	authorisation for short stay or the
authorised stay or visa;	authorised stay or visa;	the authorised stay or visa;	visa or extended the duration of the
			authorised stay or visa;
(c) the place and date of the	(c) the place and date of the	(c) the place and date of the	Provisionally agreed:
decision to revoke or annul the	decision to revoke or annul the	decision to revoke or annul the	(c) the place and date of the
authorisation to stay or the visa or to	authorisation to stay or the visa or to	authorisation for short [] stay or	decision to revoke or annul the
extend the duration of the authorised	extend the duration of the authorised	the visa or to extend the duration of	authorisation for short stay or the
stay or the visa;	stay or the visa;	the authorised stay or the visa;	visa or to extend the duration of the

			authorised stay or the visa;
(d) the new visa sticker number	(d) the new visa sticker number	(d) <u>where applicable</u> the new visa	Provisionally agreed:
including the three letter code of the	including the three letter code of the	sticker number including the three	(d) <u>where applicable</u> the new visa
issuing country;	issuing country;	letter code of the issuing country;	sticker number including the three
			letter code of the issuing country;
(e) the period of the extension of	(e) the period of the extension of	(e) <u>if possible</u> the period of the	Compromise text provisionally
the authorised duration of stay;	the authorised duration of stay;	extension of the [] duration of	agreed:
		authorised stay;	(e) the period of the extension of
			the duration of <u>authorised</u> stay;
(f) the new expiry date of the	(f) the new expiry date of the	(f) <u>if possible</u> the new expiry	Compromise text provisionally
authorisation to stay or the visa.	authorisation to stay or the visa.	date of the [] <u>authorised</u> stay or the	agreed:
		visa.	(f) the new expiry date of the
			<u>authorised</u> stay or the visa.
		<u>1a.</u> Where the duration of	Subject to final agreement on
		authorised stay has been extended in	bilateral agreements:
		accordance with Article 20(2) of the	<u>1a.</u> Where the duration of
		Convention implementing the	authorised stay has been extended in
		Schengen Agreement the competent	accordance with Article 20(2) of the
		authority shall add the data regarding	Convention implementing the
		the period of extension of the	Schengen Agreement the competent
		authorised stay to the latest relevant	authority shall add the data regarding
		entry/exit record.	the period of extension of the
			authorised stay to the latest relevant
			entry/exit record.
2. Where a decision has been	2. Where a decision has been	2. Where a decision has been	Provisionally agreed:
taken to annul, revoke or extend a	taken to annul, revoke or extend a	taken to annul, revoke or extend a	2. Where a decision has been
visa, the visa authority which has	visa, the visa authority which has	visa, the visa authority which has	taken to annul, revoke or extend a
taken the decision shall immediately	taken the decision shall immediately	taken the decision shall immediately	visa, the visa authority which has
retrieve and import the data provided	retrieve and import the data provided	retrieve and import <u>automatically</u> the	taken the decision shall immediately
for in paragraph 1 of this Article	for in paragraph 1 of this Article	data provided for in paragraph 1 of	retrieve and import the data provided
from the VIS directly into the EES in	from the VIS directly into the EES in	this Article from the VIS directly	for in paragraph 1 of this Article
accordance with Articles 13 and 14	accordance with Articles 13 and 14	into the EES in accordance with	from the VIS directly into the EES in
of Regulation (EC) No 767/2008.	øf Regulation (EC) No 767/2008.	Articles 13 and 14 of Regulation	accordance with Articles 13 and 14

		(EC) No 767/2008.	of Regulation (EC) No 767/2008.
3. The entry/exit record shall	3. The entry/exit record shall	3. The entry/exit record shall	Provisionally agreed:
indicate the ground(s) for revocation	indicate the ground(s) for revocation	indicate the ground(s) for revocation	3. The entry/exit record shall
of the authorisation to stay, which	of the authorisation to stay, which	or annulment of the [] authorised	indicate the ground(s) for revocation
shall be:	shall be:	stay, which shall be:	or annulment of the authorised stay,
			which shall be:
(a) the grounds on which the	(a) the grounds on which the	(a) [] <u>a return decision adopted</u>	Provisionally agreed:
person is being expelled;	person is being expelled;	pursuant to Directive	a) <u>a return decision adopted</u>
		2008/115/EC ^{28c} ;	pursuant to Directive
			<u>2008/115/EC^{28c};</u>
(b) any other decision taken by	(b) any other decision taken by	(b) any other decision taken by	Compromise text provisionally
the competent authorities of the	the competent authorities of the	the competent authorities of the	agreed:
Member State, in accordance with	Member State, in accordance with	Member State, in accordance with	(b) any other decision taken by
national legislation, resulting in the	national legislation, resulting in the	national legislation, resulting in the	the competent authorities of the
removal or departure of the third	removal or <i>voluntary</i> departure of	return or removal or departure of the	Member State, in accordance with
country national who does not fulfil	the third country national who does	third country national who does not	national legislation, resulting in the
or no longer fulfils the conditions for	not fulfil or no longer fulfils the	fulfil or no longer fulfils the	return or removal or <i>voluntary</i>
the entry into or for the stay in the	conditions for the entry into or for	conditions for the entry into or for	departure of the third country
territory of the Member States.	the stay in the territory of the	the <u>authorised</u> stay in the territory of	national who does not fulfil or no
	Member States.	the Member States.	longer fulfils the conditions for the
			entry into or for the <u>authorised</u> stay
			in the territory of the Member States.
4. The entry/exit record shall	4. The entry/exit record shall	4. The entry/exit record shall	
indicate the grounds for extending	indicate the grounds for extending	indicate the grounds for extending	
the duration of an authorised stay.	the duration of an authorised stay.	the duration of an authorised stay.	
5. When a person has departed	5. When a person has departed	5. When a person has departed	
or has been removed from the	or has been removed from the	or has been removed from the	
territories of the Member States	territories of the Member States	territories of the Member States	
pursuant to a decision as referred to	pursuant to a decision as referred to	pursuant to a decision as referred to	
in paragraph 3, the competent	in paragraph 3, the competent	in paragraph 3, the competent	
authority shall enter the data in	authority shall enter the data in	authority shall enter the data in	
accordance with Article 13(2) in the	accordance with Article 13(2) in the	accordance with Article 13(2) in the	
entry/exit record of that specific	entry/exit record of that specific	entry/exit record of that specific	

entry.	entry.	entry.	
Article 18	Article 18	Article 18	Provisionally agreed:
Data to be added in case of rebuttal	Data to be added in case of rebuttal	Data to be added in case of rebuttal	Article 18
of the presumption that the third	of the presumption that the third	of the presumption that the third	Data to be added in case of rebuttal
country national does not fulfil the	country national does not fulfil the	country national does not fulfil the	of the presumption that the third
conditions of duration of stay in	conditions of duration of stay in	conditions of duration of <u>authorised</u>	country national does not fulfil the
accordance with Article 12 of	accordance with Article 12 of	stay in accordance with Article 12 of	conditions of duration of <u>authorised</u>
Regulation (EU) 2016/399	Regulation (EU) 2016/399	Regulation (EU) 2016/399	stay in accordance with Article 12 of
			Regulation (EU) 2016/399

^{28c} Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

With out mayin diag to Article 20	With out anoinding to Article 20	With out projudice to Article 20	
Without prejudice to Article 20,	Without prejudice to Article 20,	Without prejudice to Article 20,	Presidency proposes to drop the
where a third country national	where a third country national	where a third country national	sentence making the presumption
present on the territory of a Member	present on the territory of a Member	present on the territory of a Member	applicable also during the border
State is not registered in the EES or	State is not registered in the EES or	State [] has no individual file	checks:
the entry/exit record does not contain	the entry/exit record does not contain	created in the EES or there is no last	Without prejudice to Article 20,
an exit date following the date of	an exit date following the date of	relevant entry/exit record [], the	where a third country national
expiry of the authorised length of	expiry of the authorised length of	competent authorities may presume	present on the territory of a Member
stay, the competent authorities may	stay, the competent authorities may	that the third country national does	State has no individual file created in
presume that the third country	presume that the third country	not fulfil or no longer fulfils the	the EES or there is no last relevant
national does not fulfil or no longer	national does not fulfil or no longer	conditions relating to duration of	entry/exit record, the competent
fulfils the conditions relating to	fulfils the conditions relating to	authorised stay within [] the	authorities may presume that the
duration of stay in the territory of the	duration of stay in the territory of the	territory of the Member States.	third country national does not fulfil
Member States.	Member States.	In addition, without prejudice to	or no longer fulfils the conditions
In that case Article 12 of Regulation	In that case Article 12 of Regulation	Article 20, the competent authorities	relating to duration of authorised stay
(EU) 2016/399 shall apply and if that	(EU) 2016/399 shall apply and if that	may presume that a third country	within the territory of the Member
presumption is rebutted by proof that	presumption is rebutted by proof that	national did not fulfil the conditions	States.
the third country national concerned	the third country national concerned	related to the duration of the previous	In addition, without prejudice to
has respected the conditions relating	has respected the conditions relating	authorised stay if during the	Article 20, the competent
to the condition of short stay, the	to the condition of short stay, in	performance of the border checks on	authorities may presume that a

competent authorities shall create an individual file for that third country national in the EES if necessary, or update the latest entry/exit record by entering the missing data in accordance with Articles 14 and 15 or delete an existing file where Article 32 applies.	accordance with Article 12(3) of that Regulation, the competent authorities shall create an individual file for that third country national in the EES if necessary, or update the latest entry/exit record by entering the missing data in accordance with Articles 14 and 15 or delete an existing file where Article 32 applies.	entry it results that the previous entry/exit record of the third country national does not contain an exit date. In that case Article 12 of Regulation (EU) 2016/399 shall apply and if that presumption is rebutted by proof that the third country national concerned has respected the conditions relating to the condition of <u>authorised []</u> stay, the competent authorities shall create an individual file for that third country national in the EES if necessary, or update the latest entry/exit record by entering the missing data in accordance with Articles 14 and 15 or delete an existing file where Article 32 applies.	third country national did not fulfil the conditions related to the duration of the previous authorised stay if during the performance of the border checks on entry it results that the previous entry/exit record of the third country national does not contain an exit date. In that case Article 12 of Regulation (EU) 2016/399 shall apply and if that presumption is rebutted by proof that the third country national concerned has respected the conditions relating to the condition of authorised stay, the competent authorities shall create an individual file for that third country national in the EES if necessary, or update the latest entry/exit record by entering the missing data in accordance with Articles 14 and 15 or delete an existing file where Article 32 applies.
Article 19	Article 19	Article 19	
Fall-back procedures in case of	Fall-back procedu res in case of	Fall-back procedures in case of	
technical impossibility to enter data	technical impossibility to enter data	technical impossibility to enter data	
or failure of the EES	or failure of the EES	or failure of the EES	
In the event of technical	In the event of technical	1. In the event of technical impossibility in entering data in the Central System or in the event of a failure of the Central System, the	Provisionally agreed:
impossibility in entering data in the	impossibility in entering data in the		Where it is In the event of technical
Central System or in the event of a	Central System or in the event of a		technically impossibleility to enter in
failure of the Central System, the	failure of the Central System, the		entering data in the Central System

17 and 18 shall be temporarily stored in the National Uniform Interface as provided for in Article 6. If this is not possible, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.17 and 18 shall be temporarily stored in the National Uniform Interface as provided for in Article 6. If this is not possible, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.17 and 18 shall be temporarily stored in the National Uniform Interface as provided for in Article 6. If this is not possible, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.17 and 18 shall be temporarily stored the temporarily stored in the Xational tan shall be entered into the contral System of the EES as soon as the technical temporary local storage can be carried out at any time and for any of their border crossing points.17 and 18 shall be temporarily stored tan shall be netted into 	data referred to in Articles 14, 15, 16,	data referred to in Articles 14, 15, 16	data referred to in Articles 14, 15, 16,	or in the event of a failure of the
in the National Uniform Interface as provided for in Article 6. If this is not possible, the data shall be temporarily stored locally. In both cases, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. The appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.			, , , ,	
provided for in Article 6. If this is not possible, the data shall be temporarily stored locally. In both cases, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.provided for in Article 6. If this is not possible, the data shall be temporarily stored locally. In both cases, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.provided for in Article 6. If this is not possible, the data shall be temporarily stored locally. In both cases, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures to ensure that such teriborder crossing points.be temporarily stored locally in Anticle 6. If this is not possible, the data shall be temporarily stored locally. In the technical impossibility or failure has been remedied. The 		1 /		•
possible, the data shall be temporarily stored locally. In both cases, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.Distribution the carried out at any time and for any of their border crossing points.Uniform Interface as provided for in Article 6. Where ff this is not possible, the data shall be temporarily stored locally. In John and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.Uniform Interface as provided for in Article 6. Where ff this is not possible, the data shall be temporary local storage can be carried out at any time and for any of their border crossing points.2.In the exceptional situation where there is no technical possiblity to register in the Central System, in the National Uniform Interface an local electronicProvisionally agreed; 2.2.In the exceptional situation where there is no technical possiblity to register in the Central System, in the data referred to in articles 14, 15, 16, 17 and 18 with theProvisionally agreed; 2.				
temporarily stored locally. In both cases, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.	1	1	1	1 1
cases, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.	▲ · · ·	1	1 /	1
the Central System of the EES as soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.	1 1 1	1 7 7	· · · · · · · · · · · · · · · · · · ·	
soon as the technical impossibility of failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.soon as the technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage may ean-be carried out at any time and for any of their border crossing points.electronic format. In both cases, the data shall be entered into the Central System of the EES as soon as the technical imposribility or required infrastructure, equipment and resources to ensure that such temporary local storage may ean-be carried out at any time and for any of their border crossing points.2.In the exceptional situation where there is no technical possibility to register in the Central System, in the National Uniform Interface and local electronic temporary storage is technically impossible. Member States shall structure, in the National U	,		·	1 /
failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.data shall be entered into the Central System of the EES as soon as the technical mossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage may ean-be carried out at any time and for any of their border crossing points.2.In the exceptional situation where there is no technical possibility to register in the Central System, in the National Uniform Interface and local electronic temporary storage is technically impossible to enter data in the States shall store manually the data referred to in articles 14, 15, 16, 17 and 18 with thedata shall be entered into the C	•			1 · · ·
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appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.technical impossibility or failure has been remedied. The Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.Provisionally agreed; 2.2.In the exceptional situation where there is no technical possibility to register in the Central System, in the National Uniform Interface and local electronic temporary storage is technically impossible to enter data in the Central System and in the National uniform Interface, and it is				
required infrastructure, equipment and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.				•
and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.and resources to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points.shall take the appropriate measures and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage may eam-be carried out at any time and for any of their border crossing points.shall take the appropriate measures 				1 2
temporary local storage can be carried out at any time and for any of their border crossing points.temporary local storage can be carried out at any time and for any of their border crossing points.and deploy the required infrastructure, equipment and resources to ensure that such temporary local storage <i>may</i> can be carried out at any time and for any of their border crossing points.2.In the exceptional situation where there is no technical possibility to register in the Central System, in the National Uniform Interface and local electronic temporary storage is technically impossible to enter data in the store manually the data referred to in articles 14, 15, 16, 17 and 18 with theProvisionally agreed; 2) Without prejudice to the obligation to carry out border checks under Regulation (EU) 2016/399, the border cational situation under Regulation (EU) 2016/399, the border autonity, in the National Uniform Interface, and in the National Uniform Interface, and it is				
carried out at any time and for any of their border crossing points.carried out at any time and for any of their border crossing points.carried out at any time and for any of their border crossing points.infrastructure, equipment and resources to ensure that such temporary local storage <i>may</i> can-be carried out at any time and for any of their border crossing points.2.In the exceptional situation where there is no technical possibility to register in the Central System, in the National Uniform Interface and local electronic temporary storage is technically impossible, Member States shall store manually the data referred to in articles 14, 15, 16, 17 and 18 with theProvisionally agreed; 2. Without prejudice to the obligation to carry out border checks under Regulation (EU) 2016/399, the border authority, in the exceptional situation where it is technically impossible to enter data in the Central System and in the National Uniform Interface, and it is				11 1
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Image: construction where there is no technical possibility to register in the Central System, in the National Uniform Interface and local electronic temporary storage is technically impossible, Member States shall store manually the data referred to in articles 14, 15, 16, 17 and 18 with theProvisionally agreed; OWIthout prejudice to the Obligation to carry out border checks under Regulation (EU) 2016/399, the border authority, in the exceptional situation where it is technically impossible to enter data in the Central System and in the National Uniform Interface, and it is				
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where there is no technical possibility to register in the Central possibility to register in the Central System, in the National Uniform Interface and local electronic temporary storage is technically impossible, Member States shall store manually the data referred to in articles 14, 15, 16, 17 and 18 with the2) Without prejudice to the obligation to carry out border checks under Regulation (EU) 2016/399, the border authority, in the exceptional situation where it is technically impossible to enter data in the Central System and in the National Uniform Interface, and it is		/	2 In the exceptional situation	01
possibility to register in the Central System, in the National Uniformobligation to carry out border checks under Regulation (EU) 2016/399, the border authority, in the exceptional temporary storage is technically impossible, Member States shall store manually the data referred to in articles 14, 15, 16, 17 and 18 with theobligation to carry out border checks under Regulation (EU) 2016/399, the border authority, in the exceptional temporary storage is technically impossible to enter data in the			<u>i</u>	
System, in the National Uniformunder Regulation (EU) 2016/399, theInterface and local electronicborder authority, in the exceptionaltemporary storage is technicallysituation where it is technicallyimpossible, Member States shallimpossible to enter data in thestore manually the data referred to inCentral System and in the Nationalarticles 14, 15, 16, 17 and 18 with theUniform Interface, and it is				1 0
Interface and local electronicborder authority, in the exceptionaltemporary storage is technicallysituation where it is technicallyimpossible, Member States shallimpossible to enter data in thestore manually the data referred to inCentral System and in the Nationalarticles 14, 15, 16, 17 and 18 with theUniform Interface, and it is				
temporary storage is technically impossible, Member States shall store manually the data referred to in articles 14, 15, 16, 17 and 18 with thesituation where it is technically impossible to enter data in the Central System and in the National Uniform Interface, and it is				-
impossible, Member States shall store manually the data referred to in articles 14, 15, 16, 17 and 18 with theimpossible to enter data in the Central System and in the National Uniform Interface, and it is				•
store manually the data referred to in articles 14, 15, 16, 17 and 18 with theCentral System and in the National Uniform Interface, and it is				5
articles 14, 15, 16, 17 and 18 with the Uniform Interface, and it is				A
				•
exception of the biometric data and technically impossible to temporarily			exception of the biometric data and	technically impossible to temporarily
in addition affix an entry or exit store the data locally in an electronic				• • • •
stamp in the travel document of the format, shall manually store				•
third country national. These entry/exit data in accordance with				

		manually stored data shall be entered in the system as soon as possible. Member States shall inform the Commission of the stamping of travel documents in the event of exceptional situations mentioned in first subparagraph. Detailed rules on the modalities to inform the Commission shall be adopted in accordance with examination procedure referred to in Article 61(2).	Articles 14, 15, 16, 17 and 18, with the exception of biometric data, and shall affix an entry or exit stamp in the travel document of the third country national. That data shall be inserted into the Central System as soon as technically possible. <u>Member States shall inform the Commission of the stamping of travel documents in the event of exceptional situations mentioned in first subparagraph. Detailed rules on the modalities to inform information to the Commission shall be adopted in accordance with the examination procedure referred to in Article</u>
Article 20	Article 20	3. The EES shall indicate that data referred to in Articles 14, 15, 16, 17 and 18 were entered during fall- back procedure and that the individual file created according to paragraph 2 is missing biometric data.	61(2). Provisionally agreed: 3. The EES shall indicate that data referred to in Articles 14, 15, 16, 17 and 18 were entered during fall- back procedure and that the individual file created according to paragraph 2 is missing biometric data. The biometric data shall be enrolled at the next border crossing.
Transitional period and transitionalmeasures1.For a period of six monthsafter the EES has started operations,	Transitional period and transitionalmeasures1.For a period of six monthsafter the EES has started operations,	Transitional period and transitionalmeasures1.For a period of six monthsafter the EES has started operations,	<i>Provisionally agreed:</i> 1. For a period of <i>180 days</i> after

in order to verify at entry that the	in order to verify at entry that the	in order to verify at entry that the	the EES has started operations, in
third country national has not	third country national has not	third country national has not	order to verify at entry and at exit
exceeded the number of entries	exceeded the number of entries	exceeded the number of entries	that third country nationals admitted
authorised by the single or double	authorised by the single or double	authorised by the <u>short stay visa</u>	for a short stay entering for a short
entry visa and to verify at entry and	entry visa and to verify at entry and	<u>issued for</u> single or double entry []	stay-have not exceeded the duration
at exit that third country nationals	at exit that third country nationals	and to verify at entry and at exit that	of the maximum authorised stay and,
entering for a short stay have not	entering for a short stay have not	third country nationals [] have not	where relevant, to verify at entry that
exceeded the length of the maximum	exceeded the length of the maximum	exceeded the <u>duration</u> [] of the	the third country national has not
authorised stay, the competent border	authorised stay, the competent border	maximum authorised_stay, the	exceeded the number of entries
authorities shall take into account the	authorities shall take into account the	competent border <u>check</u> authorities	authorised by the <u>short stay visa</u>
stays in the territories of the Member	stays in the territories of the Member	shall take into account the stays in	<u>issued</u> for single or double entry, the
States during the 180 days preceding	States during the 180 days preceding	the territories of the Member States	competent border authorities shall
the entry or the exit by checking the	the entry or the exit by checking the	during the 180 days preceding the	take into account the stays in the
stamps in the travel documents in	stamps in the travel documents in	entry or the exit by checking the	territories of the Member States
addition to the entry/exit data	addition to the entry/exit data	stamps in the travel documents in	during the 180 days preceding the
recorded in the EES.	recorded in the EES.	addition to the entry/exit data	entry or the exit by checking the
2. Where a third country national has entered the territory of the Member States and has not yet exited it before the EES has started operations, an individual file shall be created and the date of that entry as stamped in the passport shall be entered in the entry/exit record in accordance with Article 14(2) when the third country national exits. This rule shall not be limited to the six	2. Where a third country national has entered the territory of the Member States and has not yet exited it before the EES has started operations, an individual file shall be created and the date of that entry as stamped in the passport shall be entered in the entry/exit record in accordance with Article 14(2) when the third country national exits. This rule shall not be limited to the six	 recorded in the EES. 2. Where a third country national has entered the territory of the Member States and has not yet exited it before the EES has started operations, an individual file shall be created and the date of that entry as stamped in the passport shall be entered in the entry/exit record in accordance with Article 14(2) when the third country national exits. This rule shall not be limited to the six 	stamps in the travel documents in addition to the entry/exit data recorded in the EES. <i>Provisionally agreed:</i> Where a third-country national has entered the territory of the Member States before the EES has started operations and exits it after the EES has started operations, an individual file shall be created on exit and the date of entry as stamped in the passport shall be entered in the entry/exit record in accordance with Article 14(2). This rule shall not be
months after the EES has started	months after the EES has started	months after the EES has started	limited to the six months after the
operations as referred to in paragraph	operations as referred to in paragraph	operations as referred to in paragraph	EES has started operations as
1. In case of discrepancy between the	λ . In case of discrepancy between the	1. In case of discrepancy between the	referred to in paragraph 1. In case of

entry stamp and the data recorded in	entry stamp and the data recorded in	entry stamp and the data recorded in	discrepancy between the entry stamp
the EES, the stamp shall prevail.	the EES, the stamp shall prevail.	the EES, the stamp shall prevail.	and the data recorded in the EES, the
			stamp shall prevail.
Article 21	Article 21	Article 21	Provisionally agreed:
Use of data for verification at the	Use of data for verification at the	Use of data for verification at the	Article 21
external borders	external borders	[] <u>borders at which the EES is</u>	Use of data for verification at the
		<u>operated</u>	borders at which the EES is operated
1. Border authorities shall have	1. Border authorities shall have	1. Border <u>check</u> authorities shall	Provisionally agreed:
access to the EES for verifying the	access to the EES for verifying the	have access to the EES for verifying	1. Border authorities shall have
identity and previous registration of	identity and previous registration of	the identity and previous registration	access to the EES for verifying the
the third country national, for	the third country national, for	of the third country national, for	identity and previous registration of
updating the data registered into the	updating the data registered into the	updating the data registered into the	the third country national, for
EES where necessary and for	EES where necessary and for	EES where necessary and for	updating the data registered into the
consulting the data to the extent	consulting the data to the extent	consulting the data to the extent	EES where necessary and for
required for the performance of	required for the performance of	required for the performance of	consulting the data to the extent
border control tasks.	border control tasks.	border <u>check</u> [] tasks.	required for the performance of
			border <i>checks</i> .
2. Pursuant to paragraph 1, the	2. Pursuant to paragraph 1, the /	2. Pursuant to paragraph 1, the	Provisionally agreed:
border authorities shall have access	border authorities shall have access	border check authorities shall have	2. Pursuant to paragraph 1, the
to search with the data referred to in	to search with the data referred to in	access to search with the data	border authorities shall have access
Article 14(1)(a), (b) and (c).	Article 14(1)(a), (b) and (c).	referred to in Article 14(1)(a), (b)	to search with the data referred to in
In addition, for third country	In addition, for third country	and (c) <u>and Article 15(1)(a)</u> .	Article $14(1)(a)$, (b) and (c) and
nationals who are subject to a visa	nationals who are subject to a visa	In addition, for third country	Article 15(1)(a).
requirement to cross the external	requirement to cross the external	nationals who are subject to a visa	In addition, for the purposes of
borders, the border authorities may	borders, the border authorities may	requirement [], the border <u>check</u>	carrying out the consultation of the
launch a search in the VIS directly	launch a search in the VIS directly	authorities [] shall where necessary	VIS for verification [] in
from the EES using the same	from the EES using the same	launch a search in the VIS directly	accordance with Article 18 of
alphanumeric data for the purposes	alphanumeric data for the purposes	from the EES using the same	Regulation (EC) No 767/2008, for
of carrying out the consultation of	of carrying out the consultation of	alphanumeric data for the purposes of	third country nationals who are
the VIS for verification at external	the VIS for verification at external	carrying out the consultation of the	subject to a visa requirement, the
borders in accordance with Article 18	borders in accordance with Article 18	VIS for verification [] in	border authorities shall_where
of Regulation (EC) No 767/2008.	of Regulation (EC) No 767/2008.	accordance with Article 18 of	necessary launch a search in the VIS
If the search in the EES with those	If the search in the EES with those	Regulation (EC) No 767/2008, at	directly from the EES using the same

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data indicates that data on the third	data indicates that data on the third /	borders at which the EES is operated.	alphanumeric data or, where
country national are recorded in the	country national are recorded in the /	If the search in the EES with those	applicable, consult the VIS in
EES, the border authorities shall	EES, the border authorities shall /	data indicates that data on the third	accordance with Article 18(2a) of
compare the live facial image of the	compare the live facial image of the	country national are recorded in the	Regulation (EC) No 767/2008 . for
third country national with the facial	third country national with the facial	EES, the border <u>check</u> authorities	the purposes of carrying out the
image referred to in Article 14(1)(f).	image referred to in Article $14(1)(f)$.	shall compare the live facial image of	consultation of the VIS for
Where the technology is not	Where the technology is not /	the third country national with the	verification [] in accordance with
available at the border crossing for	available at the border crossing for	facial image referred to in Article	Article 18 of Regulation (EC) No
the use of live facial image, the	the use of live facial image, the	14(1)(f) and Article 15(1)(b) [] or	767/2008, at borders at which the
border authorities shall, in the case of	border authorities shall, in the case of	the border <u>check</u> authorities shall, in	EES is operated.
visa exempt third country nationals,	visa exempt third country/nationals,	the case of visa exempt third country	If the search in the EES with those
proceed to a verification of	proceed to a verification/of	nationals, proceed to a verification of	data indicates that data on the third
fingerprints against the EES and in	fingerprints against the EES and in	fingerprints against the EES and in	country national are recorded in the
the case of visa holding third country	the case of visa holding third country	the case of [] third country	EES, the border authorities shall
nationals, proceed to a verification of	nationals, proceed to/a verification of	nationals subject to a visa	compare the live facial image of the
fingerprints directly against the VIS	fingerprints directly/against the VIS	requirement, proceed to a verification	third country national with the facial
in accordance with Article 18 of	in accordance with Article 18 of	of fingerprints directly against the	image referred to in Article 14(1)(f)
Regulation (EU) No 767/2008. For	Regulation (EU) No 767/2008. For	VIS in accordance with Article 18 of	and Article 15(1)(b) or the border
the verification of fingerprints	the verification ϕ f fingerprints	Regulation (EU) No 767/2008. For	authorities shall, in the case of visa
against the VIS for visa holders, the	against the VIS for visa holders, the	the verification of fingerprints against	exempt third country nationals,
border authorities may launch the	border authorities may launch the	the VIS for visa holders, the border	proceed to a verification of
search in the VIS directly from the	search in the VIS directly from the	check authorities may launch the	fingerprints against the EES and in
EES as provided in Article 18(6) of	EES as provided in Article 18(6) of	search in the VIS directly from the	the case of third country nationals
Regulation (EC) No 767/2008.	Regulation (EC) No 767/2008.	EES as provided in Article 18(6) of	subject to a visa requirement,
If the verification of the facial image	If the verification of the facial image	Regulation (EC) No 767/2008.	proceed to a verification of
fails, the verification shall be carried	fails, the verification shall be carried	If the verification of the facial image	fingerprints directly against the VIS
out using fingerprints and vice versa.	out using fingerprints and vice versa.	fails, the verification shall be carried	in accordance with Article 18 of
		out using fingerprints and vice versa.	Regulation (EU) 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

2 If the second with the data set	3. If the search with the data set	3. If the search with the data set	Regulation (EC) No 767/2008. If the verification of the facial image fails, the verification shall be carried out using fingerprints and vice versa.
3. If the search with the data set out in paragraph 2 indicates that data on the third country national are recorded in the EES, the competent authority shall be given access to consult the data of the individual file of that third country national and the entry/exit record(s) linked to it.	3. If the search with the data set out in paragraph 2 indicates that data on the third country national are recorded in the EES, the competent authority shall be given access to consult the data of the individual file of that third country national and the entry/exit record(s) linked to it.	3. If the search with the data set out in paragraph 2 indicates that data on the third country national are recorded in the EES, the [] <u>border</u> <u>check</u> authority shall be given access to consult the data of the individual file of that third country national and the entry/exit record(s) <u>or refusal of</u> <u>entry record(s)</u> linked to it.	 Provisionally agreed: 3. If the search with the data set out in paragraph 2 indicates that data on the third country national are recorded in the EES, the border authority shall be given access to consult the data of the individual file of that third country national and the entry/exit record(s) or refusal of entry record(s) linked to it.
4. Where the search with the alphanumeric data set out in paragraph 2 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 25.	4. Where the search with the alphanumeric data set out in paragraph 2 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 25.	4. Where the search with the alphanumeric data set out in paragraph 2 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 <u>check</u> authorities shall have access to data for identification in accordance with Article 25.	 Provisionally agreed: 4. Where the search with the alphanumeric data set out in paragraph 2 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 25.
In addition, the following provisions shall apply:(a)for third country nationals	In addition, the following provisions shall apply: (a) for third country nationals	In addition, the following provisions shall apply: (a) for third country nationals	Provisionally agreed:
who are subject to a visa requirement to cross the external borders, if the	who are subject to a visa requirement to cross the external borders, if the	who are subject to a visa requirement [], if the search in the VIS with the	(a) for third country nationals who are subject to a visa

search in the VIS with the data	search in the VIS with the data /	data referred to in Article 18(1) of	requirement, if the search in the VIS
referred to in Article 18(1) of	referred to in Article 18(1) of	Regulation (EC) No 767/2008	with the data referred to in Article
Regulation (EC) No 767/2008	Regulation (EC) No 767/2008	indicates that that third country	18(1) of Regulation (EC) No
indicates that that third country	indicates that that third country	national is recorded in the VIS, a	767/2008 indicates that that third
national is recorded in the VIS, a	national is recorded in the VIS, a	verification of fingerprints against	country national is recorded in the
verification of fingerprints against	verification of fingerprints against	the VIS shall be carried out in	VIS, a verification of fingerprints
the VIS shall be carried out in	the VIS shall be carried out in	accordance with Article 18 (5) of	against the VIS shall be carried out in
accordance with Article 18 (5) of	accordance with Article 18 (5) of	Regulation (EC) No 767/2008. For	accordance with Article 18 (5) of
Regulation (EC) No 767/2008. For	Regulation (EC) No 7/67/2008. For	this purpose, the [] border check	Regulation (EC) No 767/2008. For
this purpose, the competent authority	this purpose, the competent authority	authority may launch a search from	this purpose, the border authority
may launch a search from the EES to	may launch a search from the EES to	the EES to the VIS as provided for in	may launch a search from the EES to
the VIS as provided for in Article	the VIS as provided for in Article	Article 18(6) of Regulation (EC) No	the VIS as provided for in Article
18(6) of Regulation (EC) No	18(6) of Regulation (EC) No	767/2008. In circumstances where a	18(6) of Regulation (EC) No
767/2008. In circumstances where a	767/2008. In circumstances where a	verification of the person pursuant to	767/2008. In circumstances where a
verification of the person pursuant to	verification of the person pursuant to	paragraph 2 of this Article failed, the	verification of the person pursuant to
paragraph 2 of this Article failed, the	paragraph 2 of this Article failed, the	border <u>check</u> authorities shall access	paragraph 2 of this Article failed, the
border authorities shall access the	border authorities shall access the	the VIS data for identification in	border authorities shall access the
VIS data for identification in	VIS data for identification in	accordance with Article 20 of	VIS data for identification in
accordance with Article 20 of	accordance with Article 20 of	Regulation (EC) No 767/2008.	accordance with Article 20 of
Regulation (EC) No 767/2008.	Regulation (EC) No 767/2008.		Regulation (EC) No 767/2008.
(b) for third country nationals	(b) for third country nationals	(b) for third country nationals	Provisionally agreed:
who are not subject to a visa	who are not subject to a visa	who are not subject to a visa	(b) for third country nationals
requirement to cross the external	requirement to cross the external	requirement [] and who are not	who are not subject to a visa
borders and who are not found in the	borders and who are not found in the	found in the EES further to the	requirement and who are not found
EES further to the identification run	EES further to the identification run	identification run in accordance with	in the EES further to the
in accordance with Article 25, the	in accordance with Article 25, the	Article 25, the VIS shall be consulted	identification run in accordance with
VIS shall be consulted in accordance	VIS shall be consulted in accordance	in accordance with Article 19a of	Article 25, the VIS shall be consulted
with Article 19a of Regulation (EC)	with Article 19a of Regulation (EC)	Regulation (EC) No 767/2008. The	in accordance with Article 19a of
No 767/2008. The competent	No 767/2008. The competent	[] <u>border check</u> authority may	Regulation (EC) No 767/2008. The
authority may launch a search from	authority may launch a search from	launch a search from the EES to the	border authority may launch a search
the EES to the VIS as provided for in	the EES to the VIS as provided for in	VIS as provided for in Article 19a of	from the EES to the VIS as provided
Article 19a of Regulation (EC) No	Article 19a of Regulation (EC) No	Regulation (EC) No 767/2008.	for in Article 19a of Regulation (EC)
767/2008."	767/2008."		No 767/2008.

5. For third country nationals whose data are already recorded in the EES but who had their individual file created in the EES by a Member State which is not subject to the application of Regulation (EC) No 767/2008 in accordance with its Act of Accession, the border authorities shall consult the VIS in accordance with point(a) or (b) of paragraph 4 of this Article when, for the first time after the creation of the individual file, the third country national intends to cross the external borders of a Member State which is subject to the application of Regulation (EC) No 767/2008.	5. For third country nationals whose data are already recorded in the EES but who had their individual file created in the EES by a Member State which is not subject to the application of Regulation (EC) No 767/2008 in accordance with its Act of Accession, the border authorities shall consult the VIS in accordance with point(a) or (b) of paragraph 4 of this Article when, for the first time after the creation of the individual file, the third country national intends to cross the external borders of a Member State which is subject to the application of Regulation (EC) No 767/2008.	5. [].	Provisionally agreed: 5. [].
CHAPTER III Entry of data and use of the EES by other authorities	CHAPTER III Entry of data and use of the EES by other authorities	CHAPTER III Entry of data and use of the EES by other authorities	Provisionally agreed: CHAPTER III Entry of data and Use of the EES by other authorities
Article 22 Use of the EES for examining and deciding on visa applications	Article 22 Use of the EES for examining and deciding on visa applications	Article 22 Use of the EES for examining and deciding on visa []	Compromise text provisionally agreed. Article 22 Use of the EES for examining and deciding on visas
1. Visa authorities shall consult the EES for examining visa applications and adopting decisions relating to those applications, including decisions to annul, revoke or extend the period of validity of an	1. Visa authorities shall consult the EES for examining visa applications and adopting decisions relating to those applications, including decisions to annul, revoke or extend the period of validity of an	1. Visa authorities shall consult the EES for examining visa applications and adopting decisions relating to those applications, including decisions to annul, revoke or extend the period of validity of an	Provisionally agreed:1.Visa authorities shall consultthe EES for examining visaapplications and adopting decisionsrelating to those applications,including decisions to annul, revoke

issued visa, in accordance with the relevant provisions of Regulation (EU) No 810/2009 of the European Parliament and of the Council ²⁹	issued visa, in accordance with the relevant provisions of Regulation (EU) No 810/2009 of the European Parliament and of the Council ²⁹	issued visa, in accordance with the relevant provisions of Regulation (EU) No 810/2009 of the European Parliament and of the Council. ²⁹ In addition, visa authorities of a Member State which does not yet apply Schengen acquis in full, but operate the EES, shall consult EES when examining national short stay visa applications and adopting decisions relating to those applications, including decisions to annul, revoke or extend the period of validity of an issued national short stay visa.	or extend the period of validity of an issued visa, in accordance with the relevant provisions of Regulation (EU) No 810/2009 of the European Parliament and of the Council. ²⁹ In addition, visa authorities of a Member State which does not yet apply Schengen acquis in full, but operate the EES, shall consult EES when examining national short stay visa applications and adopting decisions relating to those applications, including decisions to annul, revoke or extend the period of validity of an issued national short stay visa.
2. The visa authority shall be given access to search the EES directly from the VIS with one or several of the following data:	2. The visa authority shall be given access to search the EES directly from the VIS with one or several of the following data:	2. The visa authority shall be given access to search the EES directly from the VIS with one or several of the following data:	
(a) the data referred to in Article 14(1)(a), (b) and (c);	(a) the data referred to in Article 14(1)(a), (b) and (c);	(a) the data referred to in Article $14(1)(a)$, (b) and (c) and $15(1)(a)$;	Provisionally agreed: (a) the data referred to in Article 14(1)(a), (b) and (c);
(b) the visa sticker number, including the three letter code of the issuing Member State referred to in Article 14(1)(d);	(b) the visa sticker number, including the three letter code of the issuing Member State referred to in Article 14(1)(d);	(b) the <u>short stay</u> visa sticker number, including the three letter code of the issuing Member State referred to in Article 14([] 2)(d);	Provisionally agreed: (b) the <u>short stay</u> visa sticker number, including the three letter code of the issuing Member State referred to in Article 14(2)(d);
(c) the biometric data as referred to in Articles 14(1)(f) and 15.	(c) the biometric data as referred to in Articles 14(1)(f) and 15.	(c) the biometric data as referred to in Articles $14(1)(f)$ and $15(1)(b)$	Provisionally agreed: (c) the fingerprint data or the

²⁹ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1)

		<u>and (c).</u>	fingerprint data combined with the facial image
		(d) [the touring visa sticker number of the touring visa referred to in Article 14(2)(g)];	Provisionally agreed: []
3. If the search with the data set out in paragraph 2 indicates that data on the third country national are recorded in the EES, visa authorities shall be given access to consult the data of the individual file of that third country national and the entry/exit records linked to it.	3. If the search with the data set out in paragraph 2 indicates that data on the third country national are recorded in the EES, visa authorities shall be given access to consult the data of the individual file of that third country national and the entry/exit records linked to it.	3. If the search with the data set out in paragraph 2 indicates that data on the third country national are recorded in the EES, visa authorities shall be given access to consult the data of the individual file of that third country national and the entry/exit records <u>and also refusals of entry</u> <u>record linked to it. Visa authorities</u> <u>shall be given access to consult the</u> <u>automated calculator in order to</u> <u>check the maximum remaining</u> <u>duration of an authorised stay. They</u> <u>shall also be able to consult the EES</u> <u>and its calculator when examining</u> <u>and taking decision on a new visa</u> <u>application, so as to automatically</u> <u>establish the maximum duration of</u> <u>authorised stay.</u>	 Provisionally agreed: 3. If the search with the data set out in paragraph 2 indicates that data on the third country national are recorded in the EES, visa authorities shall be given access to consult the data of the individual file of that third country national and the entry/exit records and also refusals of entry record linked to it. Visa authorities shall be given access to consult the automated calculator in order to check the maximum remaining duration of an authorised stay. They shall also be able to consult the EES and its calculator when examining and taking decision on a new visa application, so as to automatically establish the maximum duration of authorised stay.
Article 23 Use of the EES for examining	Article 23 Use of the EES for examining	Article 23 Use of the EES for examining	
applications for access to national facilitation programmes	applications for access to national facilitation programmes	applications for access to national facilitation programmes	
1. The competent authorities referred to in Article 8e of Regulation (EU) 2016/399 shall consult the EES for the purposes of	1. The competent authorities referred to in Article & of Regulation (EU) 2016/399 shall consult the EES for the purposes of	1. The competent authorities referred to in Article 8e of Regulation (EU) 2016/399 shall consult the EES for the purposes of	

the examination of applications for	the examination of applications for	the examination of applications for	
access to national facilitation	access to national facilitation	access to national facilitation	
programmes referred to in that	programmes referred to in that	programmes referred to in that	
Article as regards the use of the	Article as regards the use of the	Article as regards the use of the	
Entry/Exit System and the adoption	Entry/Exit System and the adoption	Entry/Exit System and the adoption	
of decisions relating to those	of decisions relating to those	of decisions relating to those	
applications, including decisions to	applications, including decisions to	applications, including decisions to	
refuse, revoke or extend the period of		refuse, revoke or extend the period of	
	validity of access to the national		
validity of access to the national		validity of access to the national	
facilitation programmes in accordance with that Article.	facilitation programmes in accordance with that Article.	facilitation programmes in accordance with that Article.	
2. The competent authority shall	2. The competent authority shall	2. The competent authority shall	Provisionally agreed:
be given access to search with one or	be given access to search with one or	be given access to search with one or	The competent authority shall be
several of the data referred to in	several of the data referred to in	several of the data referred to in	given access to search with one or
Article 14(1)(a), (b), (c) and (f).	Article 14(1)(a), (b), (c) and (f).	Article 14(1)(a), (b), (c), and (f) <u>and</u>	several of the following data:
		<u>15 (1) (a), (b) and (c)</u> .	(a) the data referred to in Article
			14(1)(a), (b) and (c) or the data
			referred to in Article 15(1)(a);
			(b) the fingerprint data or the
			fingerprint data combined with the
			facial image
3. If the search with the data set	3. If the search with the data set	3. If the search with the data set	Provisionally agreed:
out in paragraph 2 indicates that data	out in paragraph 2 indicates that data	out in paragraph 2 indicates that data	3. If the search with the data set
on the third country national are	on the third country national are	on the third country national are	out in paragraph 2 indicates that data
recorded in the EES, the competent	recorded in the EES, the competent	recorded in the EES, the competent	on the third country national are
authority shall be given access to	authority shall be given access to	authority shall be given access to	recorded in the EES, the competent
consult the data of the individual file	consult the data of the individual file	consult the data of the individual file	authority shall be given access to
of that third country national and the	of that third country national and the	of that third country national and the	consult the data of the individual file
entry/exit records linked to it.	entry/exit records and refusals of	entry/exit records and also refusals of	of that third country national and the
	entry records with justifications	entry records linked to it.	entry/exit records and also refusals of
	linked to it.		entry records linked to it.

Article 24	Article 24	Article 24	
Access to data for verification within	Access to data for verification within	Access to data for verification within	
the territory of the Member States	the territory of the Member States	the territory of the Member States	
1. For the purpose of verifying	1. For the purpose of verifying /	1. For the purpose of verifying	Subject to definition of immigration
the identity of the third country	the identity of the third country	the identity of the third country	authorities specifically excluding
national and/or whether the	national and/or whether the	national and/or [] <u>checking or</u>	asylum authorities
conditions for entry to or stay on the	conditions for entry to or stay on the	verifying if the conditions for entry	
territory of the Member States are	territory of the Member States are	to or authorised stay on the territory	1. For the purpose of verifying
fulfilled, the authorities of the	fulfilled, the authorities of the /	of the Member States are fulfilled,	the identity of the third country
Member States competent to carry	Member States competent to carry	the <u>immigration</u> authorities of the	national and/or <u>checking or verifying</u>
out checks within the territory of the	out checks within the territory of the	Member States [] shall have access	if the conditions for entry to or
Member States as to whether the	Member States as to whether the	to search with the data referred to in	authorised stay on the territory of the
conditions for entry to, stay or	conditions for entry to, stay or	Article 14(1)(a), (b), [] (c) <u>and</u>	Member States are fulfilled, the
residence on the territory of the	residence on the territory of the	<u>15(1)(a)</u> .	immigration authorities of the
Member States are fulfilled, shall	Member States are fulfilled, shall	If the search indicates that data on	Member States shall have access to
have access to search with the data	have access to search with the data	the third country national are	search with the data referred to in
referred to in Article 14(1)(a), (b)	referred to in Article 14(1)(a), (b)	recorded in the EES, the <u>immigration</u>	Article 14(1)(a), (b), (c) and 15(1)(a).
and (c).	and (c).	[] authorities <u>may</u> [] compare	If the search indicates that data on
If the search indicates that data on	If the search indicates that data on	the live facial image of the third	the third country national are
the third country national are	the third country national are	country national with the facial	recorded in the EES, the immigration
recorded in the EES, the competent	recorded in the EES, the competent	image referred to in Article 14(1)(f)	authorities <u>may</u> compare the live
authorities shall compare the live	authorities shall compare the live	and 15(1) (b) [] or the immigration	facial image of the third country
facial image of the third country	facial image of the third country	[] authorities may [] verify []	national with the facial image
national with the facial image	national with the facial image	the fingerprints of visa exempt third	referred to in Article 14(1)(f) and
referred to in Article 14(1)(f). Where	referred/to in Article $14(1)(f)$. Where	country nationals in the EES and of	<u>15(1) (b) or the immigration</u>
the technology is not available for	the technology is not available for	[] third country nationals subject to	authorities may verify the
the use of live facial imaging, the	the use of live facial imaging, the	<u>a visa requirement in the VIS in</u>	fingerprints of visa exempt third
competent authorities shall proceed	competent authorities shall proceed	accordance with Article 19 of	country nationals in the EES and of
with the verification of fingerprints	with the verification of fingerprints	Regulation (EC) No 767/2008.	third country nationals subject to a
of visa exempt third country	of visa exempt third country		visa requirement in the VIS in
nationals in the EES and of visa	/nationals in the EES and of visa		accordance with Article 19 of

holding third country nationals in the VIS in accordance with Article 19 of Regulation (EC) No 767/2008.	holding third country nationals in the VIS in accordance with Article 19 of Regulation (EC) No 767/2008.		Regulation (EC) No 767/2008.
2. If the search with the data set out in paragraph 1 indicates that data on the third country national is recorded in the EES, the competent authority shall be given access to consult the data of the individual file of that person and the entry/exit record(s) linked to it.	2. If the search with the data set out in paragraph 1 indicates that data on the third country national is recorded in the EES, the competent authority shall be given access to consult the data of the individual file of that person and the entry/exit record(s) linked to it.	2. If the search with the data set out in paragraph 1 indicates that data on the third country national is recorded in the EES, the <u>immigration</u> [] authority shall be given access to consult the data of the individual file of that person, [] the entry/exit record(s), the automated calculator and refusals of entry record(s) linked to it.	Council text agreed upon, subject to an agreement on the definition of immigration authority 2. If the search with the data set out in paragraph 1 indicates that data on the third country national is recorded in the EES, the <u>immigration</u> authority shall be given access to consult the data of the individual file of that person, the entry/exit record(s), the automated calculator and refusals of entry record(s) linked to it.
3. Where the search with the data set out in paragraph 2 indicates that data on the third country national are not recorded in the EES, where verification of the third country national 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 25.	3. Where the search with the data set out in paragraph 2 indicates that data on the third country national are not recorded in the EES, where verification of the third country national 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 25.	3. Where the search with the data set out in paragraph 1 indicates that data on the third country national are not recorded in the EES, where verification of the third country national fails or where there are doubts as to the identity of the third country national, the []immigration authorities shall have access to data for identification in accordance with Article 25.	Council text agreed upon, subject to an agreement on the definition of immigration authority 3. Where the search with the data set out in paragraph 1 indicates that data on the third country national are not recorded in the EES, where verification of the third country national fails or where there are doubts as to the identity of the third country national, the <u>immigration</u> authorities shall have access to data for identification in accordance with Article 25.

Article 25	Article 25	Article 25	
Access to data for identification	Access to data for identification	Access to data for identification	
1. For the sole purpose of	1. For the sole purpose of	1. <u>The border check authorities</u>	Council text agreed upon, subject to
identifying any third country national	identifying any third country national	or immigration authorities shall have	an agreement on the definition of
who may have been registered	who may have been registered	access to search with the biometric	immigration authority
previously in the EES under a	previously in the EES under a	data of third country nationals	
different identity or who does not or	different identity or who does not or	referred to in Articles 14(1)(f) and	Provisionally agreed:
no longer fulfils the conditions for	no longer fulfils the conditions for	<u>15(1) (b) and (c),</u> for the sole purpose	1. The border authorities or
entry to, for stay or for residence on	entry to, for stay or for residence on	of identifying any third country	immigration authorities shall have
the territory of the Member States,	the territory of the Member States,	national who may have been	access to search with the fingerprint
the competent authorities for	the competent authorities for	registered previously in the EES	data or the fingerprint data combined
carrying out checks at external	carrying out checks at external	under a different identity or who does	with the facial image, for the sole
border crossing points in accordance	border crossing points in accordance	not or no longer fulfils the conditions	purpose of identifying any third
with Regulation (EU) 2016/399 or	with Regulation (EU) 2016/399 or	for entry [] or, for authorised stay	country national who may have been
within the territory of the Member	within the territory of the Member	[] on the territory of the Member	registered previously in the EES
States as to whether the conditions	States as to whether the conditions	States. []	under a different identity or who
for entry to, stay or residence on the	for entry to, stay or residence on the	Where the search with the data	does not or no longer fulfils the
territory of the Member States are	territory of the Member States are	referred to in Articles 14(1)(f) and	conditions for entry or, for authorised
fulfilled shall have access to search	fulfilled shall have access to search	15(1) (b) and (c) indicates that data	stay on the territory of the Member
with the biometric data of that third	with the biometric data of that third	on that third country national are not	States.
country national referred to in	country national referred to in	recorded in the EES, access to data	Where the search with the fingerprint
Articles 14(1)(f) and 15(1).	Articles 14(1)(f) and 15(1).	for identification shall be carried out	data or with the fingerprint data
Where the search with the data	Where the search with the data	in the VIS in accordance with Article	combined with the facial image
referred to in Articles 14(1)(f) and	referred to in Articles 14(1)(f) and	20 of Regulation (EC) No 767/2008.	indicates that data on that third
15(1) indicates that data on that third	15(1) indicates that data on that third	At [] borders at which the EES is	country national are not recorded in
country national are not recorded in	country national are not recorded in	operated, prior to any identification	the EES, access to data for
the EES, access to data for	the EES, access to data for	against the VIS, the competent	identification shall be carried out in
identification shall be carried out in	identification shall be carried out in	authorities shall first access the VIS	the VIS in accordance with Article
the VIS in accordance with Article	the VIS in accordance with Article	in accordance with Articles 18 or 19a	20 of Regulation (EC) No 767/2008.
20 of Regulation (EC) No 767/2008.	20 of Regulation (EC) No 767/2008.	of Regulation (EC) No 767/2008.	At borders at which the EES is
At external borders, prior to any	At external borders, prior to any	Where the fingerprints of that third	operated, prior to any identification

identification against the VIS, the	identification against the VIS, the	country national cannot be used or	against the VIS, the competent
competent authorities shall first	competent authorities shall first	the search with the fingerprints []	authorities shall first access the VIS
access the VIS in accordance with	access the VIS in accordance with	has failed, the search shall be carried	in accordance with Articles 18 or 19a
Articles 18 or 19a of Regulation	Articles 18 or 19a of Regulation	out with all or some of the data	of Regulation (EC) No 767/2008.
6	0		
(EC) No 767/2008.	(EC) No 767/2008.	referred to in Articles $14(1)(a)$, []	Where the fingerprints of that third
Where the fingerprints of that third	Where the fingerprints of that third	(b), <u>(c)</u> , <u>and 15(1)(a)</u> .	country national cannot be used or
country national cannot be used or	country national cannot be used or		the search with the fingerprints has
the search with the fingerprints and	the search with the fingerprints and		failed, the search shall be carried out
the facial image has failed, the search	the facial image has failed, the search		with <u>all or some of the data referred</u>
shall be carried out with the data	shall be carried out with the data		to in Articles 14(1)(a), (b), (c), and
referred to in Article 14(1)(a) or (b)	referred to in Article 14(1)(a) or (b)		<u>15(1)(a).</u>
or in both.	or in <i>both</i> . Article 14(1)(a) and (b).		
2. If the search with the data set	2. If the search with the data set	2. If the search with the data set	Provisionally agreed:
out in paragraph 1 indicates that data	out in paragraph 1 indicates that data	out in paragraph 1 indicates that data	2. If the search with the data set
on the third country national are	on the third country national are	on the third country national are	out in paragraph 1 indicates that data
recorded in the EES, the competent	recorded in the EES, the competent	recorded in the EES, the competent	on the third country national are
authority shall be given access to	authority shall be given access to	authority shall be given access to	recorded in the EES, the competent
consult the data of the individual file	consult the data of the individual file	consult the data of the individual file,	authority shall be given access to
and the linked entry/exit records	and the linked entry/exit records	[] the linked entry/exit records and	consult the data of the individual file,
		refusal of entry records.	the linked entry/exit records and
			refusal of entry records.
		<u>Article 25a</u>	Presidency suggests to delete this
		Access to data for examining the	Article.
		application for international	
		protection	
		<u>1.</u> For the sole purpose of	Presidency suggests to delete this
		facilitation of examining an	provision.
		application for international	
		protection, the determining	
		authorities shall have access to	
		search the EES with the data referred	
		to in Article 14(1) and 15 (1) (a),	
		(b),(c).	
		<u>\-//\-/-</u>	

2. If the search with the data <i>Presidency suggests to delete this</i>
listed in paragraph 1 indicates that provision.
the data of the third country national
is recorded in the EES, the competent
determining authorities shall be given
access to consult the data referred to
in Article 14(1), (2), (3)(a), (3)(b)
and (4) as well as in Article $15(1)(a)$,
(b), (c), for the sole purpose referred
to in paragraph 1.
[Art. 25b]
Access to data for determining the Presidency suggests to delete this
responsibility for asylum
<u>applications</u> article.
1. For the sole purpose of
determining the Member State Presidency suggests to delete this
responsible for an application for
international protection, the provision.
competent authorities referred to in
Article 35(1) of Regulation (EU)
604/2013 shall have access to search
in the EES with the data referred to
<u>in Art. 14(1) and Art. 15(1)(a), (b)</u>
<u>and (c).</u>
2. If the search with the data
listed in paragraph 1 indicates that <i>Presidency suggests to delete this</i>
the data of a third country national is provision.
recorded in the EES, the competent
authority of the respective Member
State referred to in Article 35(1) of
Regulation (EU) 604/2013 shall be
given access to consult the data
referred to in Article $14(1)$, $(2)(a)$

and (2)(b) as well as in Article	
<u>15(1)(a), (b) and (c), for the sole</u>	
purpose referred to in paragraph 1.]	
	Provisionally agreed subject to
	confirmation by Council:
	Article 25c
	Keeping of data retrieved from the
	EES
	Data retrieved from the EES
	pursuant to this chapter may be kept
	in national files only where
	necessary in an individual case, in
	accordance with the purpose for
	which they were retrieved and with
	relevant Union law, in particular on
	data protection, and for no longer
	than strictly necessary in that
	individual case.
	(moved from EP proposal under
	Article 37 so as to clarify reference
	to data from EES retrieved by
	different authorities and not data
	collected and stored in national
	systems/files in the first place)

CHAPTER IV:	CHAPTER IV:	CHAPTER IV:	
Procedure and conditions for	Procedure and conditions for	Procedure and conditions for	
access to the EES for law	access to the EES for law	access to the EES for law	
enforcement purposes	enforcement purposes	enforcement purposes	
Article 26 Member States' designated law enforcement authorities	Article 26 Member States' de sig nated law enfore e ment authorities	Article 26 Member States' designated [] authorities	Provisionally agreed Article 26 Member States' designated authorities
1. Member States shall	1. Member States shall	1. Member States shall	Provisionally agreed:1.Member States shalldesignate the authorities which are entitled to consult the data stored in the EES in order to prevent, detect and investigate terrorist offences or other serious criminal offences.
designate the law enforcement	designate the law enforcement	designate the [] authorities <u>referred</u>	
authorities which are entitled to	authorities which are entitled to	to under Article 3(1)(26a) which are	
consult the data stored in the EES in	consult the data stored in the EES in	entitled to consult the data stored in	
order to prevent, detect and	order to prevent, detect and	the EES in order to prevent, detect	
investigate terrorist offences or other	investigate terrorist offences or other	and investigate terrorist offences or	
serious criminal offences.	serious criminal offences	other serious criminal offences.	
2. Each Member State shall keep a list of the designated authorities. Each Member State shall notify in a declaration to eu-LISA and the Commission its designated authorities and may at any time amend or replace its declaration with another declaration. The declarations shall be published in the <i>Official</i> <i>Journal of the European Union</i> .	2. Each Member State shall keep a list of the designated authorities. Each Member State shall notify in a declaration to eu-LISA and the Commission its designated authorities and may at any time amend or replace its declaration with another declaration. The declarations shall be published in the <i>Official</i> <i>Yournal of the European Union</i> .	2. Each Member State shall keep a list of the designated authorities. Each Member State shall notify [] eu-LISA and the Commission <u>of</u> its designated authorities and may at any time amend or replace its <u>notification.</u> []	 <i>Provisionally agreed:</i> 2. Each Member State shall keep a list of the designated authorities. Each Member State shall notify eu-LISA and the Commission of its designated authorities and may at any time amend or replace its notification.
3. Each Member State shall	3. Each Member State shall designate	 3. Each Member State shall designate a central access point which shall have access to the EES. []. The central access point shall [] ensure that the conditions to 	<i>Provisionally agreed:</i>
designate a central access point	a central access point which shall		Each Member State shall designate a
which shall have access to the EES.	have access to the EES. The central		central access point which shall have
The central access point shall be an	access point shall be an authority of		access to the EES. The central access
authority of the Member State which	the Member State which is		point shall verify that the conditions

			1
is responsible for the prevention,	responsible for the prevention,	request access to the EES laid down	to request access to the EES laid
detection or investigation of terrorist	detection or investigation of terrorist	in Article 29 of this Regulation are	down in Article 29 are fulfilled.
offences or of other serious criminal	offences or of other serious criminal	fulfilled.	The designated authority and the
offences. The central access point	offences. The central access point	The designated authority and the	central access point may be part of
shall verify that the conditions to	shall verify that the conditions to	central access point may be part of	the same organisation if permitted
request access to the EES laid down	request access to the EES laid down	the same organisation if permitted	under national law, but the central
in Article 29 are fulfilled.	in Article 29 are fulfilled.	under national law. [] The central	access point shall act fully
The designated authority and the	The designated authority and the	access point shall act independently	independently of the designated
central access point may be part of	central access point may be part of	of the designated authorities when	authorities when performing its tasks
the same organisation if permitted	the same organisation if permitted	performing its tasks under this	under this Regulation. The central
under national law, but the central	under national law, but the central	Regulation. The central access point	access point shall be separate from
access point shall act independently	access point shall <i>be independent</i>	shall be separate from the designated	the designated authorities and shall
when performing its tasks under this	and act independently fully	authorities and shall not receive	not receive instructions from them as
Regulation. The central access point	<i>independently</i> when performing its	instructions from them as regards the	regards the outcome of the
shall be separate from the designated	tasks under this Regulation. The	outcome of the verification.	verification which it shall perform
authorities and shall not receive	central access point shall be separate	Member States may designate more	independently.
instructions from them as regards the	from the designated authorities and	than one central access point to	Member States may designate more
outcome of the verification.	shall not receive instructions from	reflect their organisational and	than one central access point to
Member States may designate more	them as regards the outcome of the	administrative structure in the	reflect their organisational and
than one central access point to	verification.	fulfilment of their constitutional or	administrative structure in the
reflect their organisational and	Member States may designate more	legal requirements.	fulfilment of their constitutional or
administrative structure in the	than one central access point to		legal requirements.
fulfilment of their constitutional or	reflect their organisational and		
legal requirements.	administrative structure in the		
	fulfilment of their constitutional or		
	legal requirements.		
4. Each Member State shall	4. Each Member State shall	4. Each Member State shall	Provisionally agreed:
notify in a declaration to eu-LISA	notify in a declaration to eu-LISA	notify [] eu-LISA and the	4. Each Member State shall
and the Commission their central	and the Commission their central	Commission of its central access	notify eu-LISA and the Commission
access point(s) and may at any time	access point(s) and may at any time	point and may at any time amend or	of its central access point and may at
amend or replace its declaration with	amend or replace its declaration with	replace its <u>notification</u> [].	any time amend or replace its
another declaration. The declarations	another declaration. The declarations		notification.
shall be published in the Official	shall be published in the Official		

Journal of the European Union.	Journal of the European Union.		
5. At national level, each	5. At national level, each	5. At national level, each	
Member State shall keep a list of the	Member State shall keep a list of the	Member State shall keep a list of the	
operating units within the designated	operating units within the designated	operating units within the designated	
authorities that are authorised to	authorities that are authorised to	authorities that are authorised to	
request access to data stored in the	request access to data stored in the	request access to data stored in the	
EES through the central access	EES through the central access	EES through the central access	
point(s).	point(s).	point(s).	
6. Only duly empowered staff of	6. Only duly empowered staff of	6. Only duly empowered staff of	
the central access point(s) shall be	the central access point(s) shall be	the central access point(s) shall be	
authorised to access the EES in	authorised to access the EES in	authorised to access the EES in	
accordance with Articles 28 and 29.	accordance with Articles 28 and 29.	accordance with Articles 28 and 29.	
Article 27	Article 27	Article 27	
Europol	Europol	Europol	
1. Europol shall designate an	1. Europol shall designate an	1. Europol shall designate an	Provisionally agreed:
authority which is authorised to	authority which is authorised to	authority which is authorised to	1. Europol shall designate an
request access to the EES through its	request access to the EES through its	request access to the EES through its	authority which is authorised one of
designated central access point in	designated central access point in	designated central access point in	its operating units as 'Europol
order to prevent, detect and	order to prevent, detect and	order to prevent, detect and	designated authority' and shall
investigate terrorist offences or other	investigate terrorist offences or other	investigate terrorist offences or other	authorise it to request access to the
serious criminal offences. The	serious criminal offences. The	serious criminal offences. The	EES through its the EES designated
designated authority shall be an	designated authority shall be an	designated authority shall be an	central access point in order to
operating unit of Europol.	operating unit of Europol.	operating unit of Europol.	support and strengthen action by
			Member States in preventing,
			detecting and investigating terrorist
			offences or other serious criminal
			offences. The designated authority
			shall be an operating unit of Europol.
2. Europol shall designate a	2. Europol shall designate a	2. Europol shall designate a	Provisionally agreed:
specialised unit with duly	specialised unit with duly	specialised unit with duly	2. Europol shall designate a
empowered Europol officials as the	empowered Europol officials as the	empowered Europol officials as the	specialised unit with duly
central access point. The central	central access point. The central	central access point. The central	empowered Europol officials as the
access point shall verify that the	access point shall verify that the	access point shall verify that the	central access point. The central

conditions to request access to the EES laid down in Article 30 are fulfilled. The central access point shall act independently when performing its tasks under this Regulation and shall not receive instructions from the designated authority referred to in paragraph 1 as regards the outcome of the verification. Article 28 Procedure for access referred to in Article 26(5) shall submit a reasoned electronic request to the central access points referred to in Article 26(3) for access to data stored for access referred to in Article 26(3) for access to data stored for access referred to in Article 26(3) for access to the access do for access referred to in the EES laid down in Article 26(5) shall submit a reasoned electronic request to the central access points referred to in Article 26(3) for access to data stored for access referred to in Article 26(3) for access to the access do for access referred to in Article 26(3) for access to data stored for access referred to in Article 26(3) for access to data stored for access referred to in Article 26(3) for access to data stored for access referred to in Article 26(3) for access to data stored for access referred to in Article 26(3) for access to data stored for access referred to in Article 26(3) for access to reductions for access are fulfilled. If the conditions for access referred to in Article 26(3) in such a way as to not compromise the spoint(s) shall process the requests. The EES data accessed point(s) shall process the requests. The EES data accessed so not compromise the spoint(s) shall process the access are fulfilled. If the conditions for access referred to in Article 26(5) in such a way as to not compromise the spoint(s) shall process the requests. The EES data accessed so not compromise the spoint(s) shall process the requests. The EES data accessed so not compromise the spoint(s) shall process the requests. The EES data accessed so not compromise the spoint(s) shall process the requests. The EES data accessed so not compromise the spoint(s) shall proces	11.	11.1	11.1	
fulfilled.fulfilled.fulfilled.ES laid down in Article 30 are fulfilled.The central access point shall act independently when performing its tasks under this Regulation and shall not receive instructions from the designated authority referred to in paragraph 1 as regards the outcome of the verification.fulfilled.The central access point shall act independently when performing its tasks under this Regulation and shall not receive instructions from the designated authority referred to in paragraph 1 as regards the outcome of the verification.fulfilled.The central access point shall act independently when performing its tasks under this Regulation and shall not receive instructions from the designated authority referred to in paragraph 1 as regards the outcome of the verification.Fulfilled.ES laid down in Article 30 are fulfilled.Article 28Procedure for access to the EES for law enforcement purposesArticle 281.The operating units referred to in Article 26(5) shall submit a reasoned electronic request to the central access points referred to in the EES. Upon receipt of a request, for access the central access points referred to in Article 26(5) shall submit a reasoned electronic or written request for access the central access, the central access point(s) shall process the requests. The central access points referred to in Article 26(5) in submit a reasoned electronic or written request for access the central access points referred to in Article 26(5) in all weify whether the conditions for access referred to in Article 26(5) in all verify whether the conditions for access referred to in Article 26(5) in such a way as to not compromise the away as to not compromise the1. <td>-</td> <td>1</td> <td>A</td> <td>1</td>	-	1	A	1
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in the EES. Upon receipt of a request for access, the central access point(s) shall verify whether the conditions for access referred to in Article 29 are fulfilled. If the conditions for access are fulfilled. If the conditions for access the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the away as to not compromise the	central access points referred to in	central access points referred to in	to the central access points referred	reasoned electronic or written request
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shall verify whether the conditions for access referred to in Article 29 are fulfilled. If the conditions for access are fulfilled, the duly authorised staff of the central access point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in article 26(5) in such a way as to not compromise theshall verify whether the conditions for access referred to in Article 29 are fulfilled. If the conditions for access are fulfilled, the duly authorised staff of the central access point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise theshall verify whether the conditions for access referred to in Article 26(5) in such a way as to not compromise thepoint(s) shall verify whether the conditions for access referred to in Article 29 are fulfilled. If the conditions for access are fulfilled, the duly authorised staff of the central access point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise thepoint(s) shall verify whether the conditions for access referred to in Article 29 are fulfilled. If the conditions for access are fulfilled, the conditions for access point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise thepoint(s) shall verify whether the conditions for access referred to in Article 29 are fulfilled. If the conditions for access are fulfilled, the conditions for access are fulfilled, the conditions for access are fulfilled. If the conditions for access arefulfilled, the conditions f	in the EES. Upon receipt of a request	in the EES. Upon receipt of a request	stored in the EES. Upon receipt of a	to in Article 26(3) for access to data
for access referred to in Article 29 are fulfilled. If the conditions for access are fulfilled, the duly authorised staff of the central access point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the away as to not compromise the	for access, the central access point(s)	for access, the central access point(s)	request for access, the central access	stored in the EES. Upon receipt of a
are fulfilled. If the conditions for access are fulfilled, the duly authorised staff of the central access point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the a way as to not compromise the a way as to not compromise the are fulfilled. If the conditions for access are fulfilled, the duly authorised staff of the central access point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the a way as to not compromise the a refulfilled. If the conditions for access are fulfilled. If the conditions for access are fulfilled. If the conditions for access referred to in Article 29 are fulfilled. If the conditions for access are fulfilled. If the conditions for access are fulfilled, the conditions for access are fulfilled, the conditions for access are fulfilled. If the conditions for access are fulfilled, the conditions for access are fulfilled. If the conditions for access are fulfilled. If the conditions for access are fulfilled, the conditions for access are fulfilled. If the conditions for access are fulfilled,	shall verify whether the conditions	shall verify whether the conditions	point(s) shall verify whether the	request for access, the central access
access are fulfilled, the duly authorised staff of the central access point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise theaccess are fulfilled, the duly authorised staff of the central access point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise theconditions for access are fulfilled, [] the central access point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise theArticle 29 are fulfilled. If the conditions for access are fulfilled, the conditions for access are fulfilled, in the central access point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in Article 26(5) in such a way as to not compromise the security of the data.Article 29 are fulfilled. If the conditions for access are fulfilled, the conditions for access are fulfilled, the central access point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in Article 26(5) in such a way as to not compromise the	for access referred to in Article 29	for access referred to in Article 29	conditions for access referred to in	point(s) shall verify whether the
authorised staff of the central access point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the example to the operating units referred to in on to compromise the a way as to not compromise the example to the operating units referred to in in Article 26(5) in such a way as to not compromise the example to the operating units referred to in in Article 26(5) in such a way as to not compromise the example to the operating units referred to in in Article 26(5) in such a way as to not compromise the example to the operating units referred to in in Article 26(5) in such a way as to not compromise the example to the operating units referred to in in Article 26(5) in such a way as to not compromise the example to the operating units referred to in in Article 26(5) in such a way as to not compromise the example to the operating units referred to in in Article 26(5) in such a way as to not compromise the example to the operating units referred to in in Article 26(5) in such a way as to not compromise the example to the operating units referred to in a tricle 26(5) in such a way as to not compromise the security of the data.	are fulfilled. If the conditions for	are fulfilled. If the conditions for	Article 29 are fulfilled. If the	conditions for access referred to in
point(s) shall process the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the exercise the requests. The EES data accessed shall be transmitted to the operating units referred to in on Article 26(5) in such a way as to not compromise the exercise the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the exercise the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the exercise the requests. The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the exercise the security of the data.	access are fulfilled, the duly	access are fulfilled, the duly	conditions for access are fulfilled,	Article 29 are fulfilled. If the
The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the The EES data accessed shall be transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the the requests. The EES data accessed shall be transmitted to the operating units referred to in Article 26(5) in such a way as to not compromise the security of the data.	authorised staff of the central access	authorised staff of the central access	[] the central access point(s) shall	conditions for access are fulfilled, the
transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the transmitted to the operating units a way as to not compromise the transmitted to the operating units operating units referred to in Article 26(5) in such a way as to not compromise the security of the data.	point(s) shall process the requests.	point(s) shall process the requests.	process the requests. The EES data	central access point(s) shall process
transmitted to the operating units referred to in in Article 26(5) in such a way as to not compromise the transmitted to the operating units a way as to not compromise the transmitted to the operating units operating units referred to in Article 26(5) in such a way as to not compromise the security of the data.			accessed shall be transmitted to the	
referred to in in Article 26(5) in such a way as to not compromise thereferred to in in Article 26(5) in such a way as to not compromise the26(5) in such a way as to not compromise the security of the data.units referred to in Article 26(5) in such a way as to not compromise the	transmitted to the operating units		operating units referred to in Article	-
			26(5) in such a way as to not	1 0
	a way as to not compromise the	a way as to not compromise the	compromise the security of the data.	such a way as to not compromise the
		/•	- · ·	· · ·
				-

2. In an exceptional case of urgency, where there is a need to prevent an imminent danger associated with a terrorist offence or another serious criminal offence, the central access point(s) shall process the request immediately and shall only verify ex post whether all the conditions of Article 29 are fulfilled, including whether an exceptional case of urgency actually existed. The ex post verification shall take place without undue delay after the processing of the request.	2. In an exceptional case of urgency, where there is a need to prevent an imminent danger associated with a terrorist offence or another serious criminal offence, the central access point(s) shall process the request immediately and shall only verify ex post whether all the conditions of Article 29 are fulfilled, including whether an exceptional case of urgency actually existed. The ex post verification shall take place without undue delay <i>and in any</i> <i>event no later than 48 hours</i> after the processing of the request.	2. [] Where there is a need to prevent <u>a terrorist offence or</u> an imminent danger associated with [] another serious criminal offence, the central access point(s) shall process the request immediately and shall only verify ex post whether all the conditions of Article 29 are fulfilled, including whether <u>a</u> [] case of urgency actually existed. The ex post verification shall take place without undue delay after the processing of the request.	<i>Provisionally agreed:</i> In a case of urgency, where there is a need to prevent an imminent danger associated with a terrorist offence or another serious criminal offence, the central access point(s) shall process the request immediately and shall only verify ex post whether all the conditions of Article 29 are fulfilled, including whether a_case of urgency actually existed. The ex post verification shall take place without undue delay and in any event no later than 7 working days after the processing of the request
3. Where an ex post verification determines that the access to EES data was not justified, all the authorities that accessed such data shall erase the information accessed from the EES and shall inform the central access points of the erasure. Article 29 Conditions for access to EES data by designated authorities of Member	3. Where an ex post verification determines that the access to EES data was not justified, all the authorities that accessed such data shall erase the information accessed from the EES and shall inform the central access points of the erasure. Article 29 Conditions for access to EES data by designated authorities of Member	3. Where an ex post verification determines that the access to EES data was not justified, all the authorities that accessed such data shall erase the information accessed from the EES and shall inform the central access points of the erasure. Article 29 Conditions for access to EES data by designated authorities of Member	
States1.Designated authorities may access the EES for consultation if all of the following conditions are met:(a)access for consultation is necessary for the purpose of the prevention, detection or investigation	States1.Designated authorities may access the EES for consultation if all of the following conditions are met:(a)access for consultation is necessary for the purpose of the prevention, detection, or	States1. Designated authorities may access the EES for consultation if all of the following conditions are met:(a) access for consultation is necessary for the purpose of the prevention, detection or investigation	Provisionally agreed: (a) access for consultation is necessary for the purpose of the

of a terrorist offences or another serious criminal offence, thus making a search of the database proportionate if there is an overriding public security concer;	investigation <i>or prosecution</i> of a terrorist <i>offence</i> or another serious criminal offence , thus making a search of the database proportionate if there is an overriding public security concern	of a terrorist offences or another serious criminal offence, thus making a search of the database proportionate if there is an overriding public security concer <u>n</u> ;	prevention, detection or investigation of a terrorist offences or another serious criminal offence, thus making a search of the database proportionate if there is an overriding public security concer <u>n</u> ;
(b) access for consultation is necessary in a specific case;	(b) access for consultation is necessary <i>and proportionate</i> in a specific case;	(b) access for consultation is necessary in a specific case;	 Provisionally agreed: (b) access for consultation is necessary and proportionate in a specific case;
(c) reasonable grounds exist to consider that the consultation of the EES data may substantially contribute to the prevention, detection or investigation of any of the criminal offences in question, in particular where there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls under a category covered by this Regulation;	 (c) evidence or reasonable grounds exist to consider that the consultation of the EES data may will substantially contribute to the prevention, detection, or investigation or prosecution of any of the criminal offences in question, in particular where there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls under a category covered by this Regulation; 	(c) reasonable grounds exist to consider that the consultation of the EES data may [] contribute to the prevention, detection or investigation of any of the criminal offences in question, in particular where there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls under a category covered by this Regulation;	Provisionally agreed: (c) evidence or reasonable grounds exist to consider that the consultation of the EES data will contribute to the prevention, detection or investigation of any of the criminal offences in question, in particular where there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls under a category covered by this Regulation;
2. The access to the EES as a criminal identification tool for the purpose of identifying an unknown suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence shall be allowed when the conditions listed in paragraph 1 are met and the following additional conditions are	2. The access to the EES as a criminal identification tool for the purpose of identifying an unknown suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence shall be allowed when the conditions listed in paragraph 1 are met and the following additional conditions are	2. The access to the EES as a criminal identification tool for the purpose of identifying an unknown suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence shall be allowed when the conditions listed in paragraph 1 are met and the following additional conditions are	 <i>Provisionally agreed:</i> 2. The access to the EES as a tool for the purpose of identifying an unknown suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence shall be allowed when the conditions listed in paragraph 1 are met and the following additional

met:	met:	met:	conditions are met:
(a) a prior search has been	(a) a prior search has been	(a) a prior search has been	Provisionally agreed:
conducted in national databases	conducted in national databases	conducted in national databases []	(a) a prior search has been
without success;	without success;		conducted in national databases;
(b) in the case of searches with	(b) in the case of searches with	(b) in the case of searches with	Provisionally agreed:
fingerprints, a prior search has been	fingerprints, a prior search has been	fingerprints, a prior search has been	b) in the case of searches with
conducted without success in the	conducted without success in the	launched [] in the automated	fingerprints, a prior search has been
automated fingerprint verification	automated fingerprint verification	fingerprint identification [] system	launched in the automated fingerprint
system of the other Member States	system of the other Member States	of the other Member States under	identification system of the other
under Decision 2008/615/JHA where	under Decision 2008/615/JHA where	Decision 2008/615/JHA where	Member States under Decision
comparisons of fingerprints are	comparisons of fingerprints are	comparisons of fingerprints are	2008/615/JHA where comparisons of
technically available.	technically available.	technically available.	fingerprints are technically available,
			and either that search has been
			fully conducted, or the search has
			not been fully conducted within 2
			days of being launched.
However, that prior search does not	However, that prior search does not	However, the additional conditions in	Provisionally agreed
have to be conducted where there are	have to be conducted where there are	sub-paragraphs (a) and (b) of this	However, the additional conditions in
reasonable grounds to believe that a	reasonable grounds to believe that a	paragraph shall not apply [] where	sub-paragraphs (a) and (b) of this
comparison with the systems of the	comparison with the systems of the	there are reasonable grounds to	paragraph shall not apply where there
other Member States would not lead	other Member States would not lead	believe that a comparison with the	are reasonable grounds to believe
to the verification of the identity of	to the verification of the identity of	systems of the other Member States	that a comparison with the systems
the data subject. Those reasonable	the data subject or in exceptionally	would not lead to the verification of	of the other Member States would
grounds shall be included in the	urgent cases where it is necessary to	the identity of the data subject or	not lead to the verification of the
electronic request for comparison	avert an imminent danger arising	where there is a need to prevent a	identity of the data subject or in case
with EES data sent by the designated	from a terrorist offence or other	terrorist offence or an imminent	of urgency where there is a need to
authority to the central access	serious criminal offence. Those	danger associated with another	prevent an imminent danger
point(s).	reasonable grounds shall be included	serious criminal offence. Those	associated with a terrorist offence
Since fingerprint data of visa holding	in the electronic request for	reasonable grounds shall be included	or another serious criminal
third country nationals are only	comparison with EES data sent by	in the electronic or written request	offence. Those reasonable grounds
stored in the VIS, a request for	the designated authority to the central	for comparison with EES data sent	shall be included in the electronic or
consultation of the VIS on the same	access point(s).	by the <u>operational unit []</u> to the	written request for comparison with
data subject may be submitted in	Since fingerprint data of visa holding	central access point(s).	EES data sent by the operating unit

parallel to a request for consultation of the EES in accordance with the conditions laid down in Decision 2008/633/JHA provided the searches carried out in accordance with points(a) and (b) of the first subparagraph did not lead to the verification of the identity of the data subject.	third country nationals are only stored in the VIS, a request for consultation of the VIS on the same data subject may be submitted in parallel to a request for consultation of the EES in accordance with the conditions laid down in Decision 2008/633/JHA provided the searches carried out in accordance with points(a) and (b) of the first subparagraph did not lead to the verification of the identity of the data subject.	Since fingerprint data of [] third country nationals <u>subject to a visa</u> <u>requirement</u> are only stored in the VIS, a request for consultation of the VIS on the same data subject may be submitted in parallel to a request for consultation of the EES in accordance with the conditions laid down in Decision 2008/633/JHA [].	of the designated authority to the central access point(s). Since fingerprint data of third country nationals subject to a visa requirement are only stored in the VIS, a request for consultation of the VIS on the same data subject may be submitted in parallel to a request for consultation of the EES in accordance with the conditions laid down in Decision 2008/633/JHA.
3. The access to the EES as a criminal intelligence tool to consult the travel history or the periods of stay in the Schengen area of a known suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence shall be allowed when the conditions listed in paragraph 1 are met and where there is a duly justified need to consult the entry/exit records of the person concerned.	3. The access to the EES as a criminal intelligence tool to consult the travel history or the periods of stay in the Schengen area of a known suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence shall be allowed when the conditions listed in paragraph 1 are met and where there is a duly justified need to consult the entry/exit records of the person concerned.	3. The access to the EES as a criminal intelligence tool to consult the travel history or the periods of <u>authorised</u> stay <u>on the territory of the Member States</u> [] of a known suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence shall be allowed when the conditions listed in paragraph 1 are met. []	 Provisionally agreed: 3. The access to the EES as a tool to consult the travel history or the periods of <u>authorised</u> stay <u>on the territory of the Member States</u> of a known suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence shall be allowed when the conditions listed in paragraph 1 are met.
4. Consultation of the EES for identification shall be limited to searching in the application file with any of the following EES data:	4. Consultation of the EES for identification <i>as referred to in paragraph 2</i> shall be limited to searching in the application file with any of the following EES data:	4. Consultation of the EES for identification shall be limited to searching in the [] <u>individual</u> file with any of the following EES data:	 Provisionally agreed: 4. Consultation of the EES for identification as referred to in paragraph 2 shall be limited to searching in the individual file with any of the following EES data:

(a) Fingerprints (including	(a) Fingerprints (including	(a) Fingerprints [] of visa	Provisionally agreed:
latents) of visa exempt third country	latents) of visa exempt third country	exempt third country nationals or of	a) Fingerprints of visa exempt
nationals;	nationals;	holders of a Facilitated Transit	third country nationals or of holders
		Document (FTD) issued in	of a Facilitated Transit Document
		accordance with Regulation (EC)	(FTD) issued in accordance with
		693/2003. In order to launch this	Regulation (EC) 693/2003. In order
		consultation of the EES, latent	to launch this consultation of the
		fingerprints may be used and may	EES, latent fingerprints may be used
		therefore be compared with the	and may therefore be compared with
		fingerprints stored in the EES;	the fingerprints stored in the EES;
(b) Facial image.	(b) Facial image.	(b) Facial image.	
Consultation of the EES, in case of a	Consultation of the EES, in case of a	Consultation of the EES, in case of a	Provisionally agreed:
hit, shall give access to any other	hit, shall give access to any other	hit, shall give access to any other	Consultation of the EES, in case of a
data taken from the individual file as	data taken from the individual file as	data taken from the individual file as	hit, shall give access to any other
listed in Article 14(1) and Article	listed in Article 14(1) and Article	listed in Article 14(1), <u>14(6)</u> , []	data taken from the individual file as
15(1).	15(1).	Article 15(1) and Article 16(1).	listed in Article $14(1)$, $14(6)$, Article
			15(1) and Article 16(1).
5. Consultation of the EES for	5. Consultation of the EES for	5. Consultation of the EES for	Provisionally agreed:
the travel history of the third country	the travel history of the third country	the travel history of the third country	5. Consultation of the EES for
national concerned shall be limited to	national concerned as referred to in	national concerned shall be limited to	the travel history of the third country
searching with any of the following	paragraph 3 shall be limited to	searching with any of the following	national concerned shall be limited to
EES data in the individual file or in	searching with any of the following	EES data in the individual file,[] in	searching with any of the following
the entry/exit records:	EES data in the individual file or in	the entry/exit records or in the refusal	EES data in the individual file, in the
	the entry/exit records:	of entry record:	entry/exit records or in the refusal of
			entry record:
(a) Surname(s) (family name);	(a) Surname(s) (family name);	(a) Surname(s) (family name);	Provisionally agreed:
first name(s) (given names); date of	first name(s) (given names); date of	first name(s) (given names), date of	(a) Surname(s) (family name);,
birth, nationality or nationalities and	birth, nationality or nationalities and	birth, nationality or nationalities	first name(s) (given names), date of
sex;	sex;	and <u>/or</u> sex;	birth, nationality or nationalities
			and <u>/or</u> sex;

(b) Type and number of travel	(b) Type and number of travel	(b) Type and number of travel	
document or documents, three letter	document or documents, three letter	document or documents, three letter	
code of the issuing country and date	code of the issuing country and date	code of the issuing country and date	
of expiry of the validity of the travel	of expiry of the validity of the travel	of expiry of the validity of the travel	
document;	document;	document;	
(c) Visa sticker number and the	(c) Visa sticker number and the	(c) Visa sticker number and the	
date of expiry of the validity of the	date of expiry of the validity of the	date of expiry of the validity of the	
visa.	visa.	visa <u>:</u>	
(d) Fingerprints (including	(d) Fingerprints (including	(d) Fingerprints. <u>In order to</u>	Provisionally agreed:
latents);	latents);	launch this consultation of the EES,	(d) Fingerprints, including latent
		latent fingerprints may be used and	fingerprints;
		may therefore be compared with the	
		fingerprints stored in the EES. []	
(e) Facial image;	(e) Facial image;	(e) Facial image;	
(f) Date and time of entry, entry	(f) Date and time of entry, entry	(f) Date and time of entry, []	Provisionally agreed:
authoriser authority and entry border	authoriser authority and entry border	authority that authorised the entry	(f) Date and time of entry,
crossing point;	crossing point;	and entry border crossing point;	authority that authorised the entry
	er '		and entry border crossing point;
(g) Date and time of exit and exit	(g) Date and time of exit and exit	(g) Date and time of exit and exit	
border crossing point;	border erossing point;	border crossing point.	
Consultation of the EES shall, in the	Consultation of the EES shall, in the	Consultation of the EES shall, in the	Provisionally agreed:
event of a hit, give access to the data	event of a hit, give access to the data	event of a hit, give access to the data	Consultation of the EES shall, in the
listed in this paragraph as well as to	listed in this paragraph as well as to	listed in this paragraph as well as to	event of a hit, give access to the data
any other data taken from the	any other data taken from the	any other data taken from the	listed in this paragraph as well as to
individual file and the entry/exit	individual file and the entry/exit	individual file. [] the entry/exit	any other data taken from the
records including data entered in	records including data entered in	records and refusal of entry records	individual file, the entry/exit records
respect of revocation or extension of	respect of revocation or extension of	including data entered in respect of	and refusal of entry records including
authorisation to stay in accordance	authorisation to stay in accordance	revocation or extension of <u>authorised</u>	data entered in respect of revocation
with Article 17.	with Article 17.	[] stay in accordance with Article	or extension of <u>authorised</u> stay in
		17.	accordance with Article 17.

Article 30	Article 30	Article 30	
Procedure and conditions for access	Procedure and conditions for access	Procedure and conditions for access	
to EES data by Europol	to EES data by Europol	to EES data by Europol	
1. Europol shall have access to	1. Europol shall have access to	1. Europol shall have access to	
consult the EES where all the	consult the EES where all the	consult the EES where all the	
following conditions are met:	following conditions are met:	following conditions are met:	
(a) the consultation is necessary	(a) the consultation is necessary	(a) the consultation is necessary	Provisionally agreed:
to support and strengthen action by	to support and strengthen action by	to support and strengthen action by	(a) the consultation is necessary
Member States in preventing,	Member States in preventing,	Member States in preventing,	to support and strengthen action by
detecting or investigating terrorist	detecting or investigating terrorist	detecting or investigating terrorist	Member States in preventing,
offences or other serious criminal	offences or other serious criminal	offences or other serious criminal	detecting or investigating terrorist
offences falling under Europol's	offences falling under Europol's	offences falling under Europol's	offences or other serious criminal
mandate, thus making a search of the	mandate; thus making a search of the	mandate, thus making a search of the	offences falling under Europol's
database proportionate if there is an	database proportionate if there is an	database proportionate if there is an	mandate; thus making a search of the
overriding public security concern;	overriding public security concern;	overriding public security concern;	database proportionate if there is an
			overriding public security concern;
(b) the consultation is necessary	(b) the consultation is necessary	(b) the consultation is necessary	Provisionally agreed:
in a specific case;	and proportionate in a specific case;	in a specific case;	(b) the consultation is necessary
			and proportionate in a specific case;
(c) reasonable grounds exist to	(c) <i>evidence or</i> reasonable	(c) reasonable grounds exist to	Provisionally agreed:
consider that the consultation may	grounds exist to consider that the	consider that the consultation may	(c) evidence or reasonable
substantially contribute to the	consultation may will substantially	substantially contribute to the	grounds exist to consider that the
prevention, detection or investigation	contribute to the prevention,	prevention, detection or investigation	consultation of the EES data will
of any of the criminal offences in	detection, or-investigation or	of any of the criminal offences in	contribute to the prevention,
question, in particular where there is	<i>prosecution</i> of any of the criminal	question, in particular where there is	detection or investigation of any of
a substantiated suspicion that the	offences in question, in particular	a substantiated suspicion that the	the criminal offences in question, in
suspect, perpetrator or victim of a	where there is a substantiated	suspect, perpetrator or victim of a	particular where there is a
terrorist offence or other serious	suspicion that the suspect, perpetrator	terrorist offence or other serious	substantiated suspicion that the
criminal offence falls under a	or victim of a terrorist offence or	criminal offence falls under a	suspect, perpetrator or victim of a
category covered by this Regulation.	other serious criminal offence falls	category covered by this Regulation.	terrorist offence or other serious
	under a category covered by this		criminal offence falls under a

	Regulation.		category covered by this Regulation;
	1a. Access to the EES as a tool		Compromise provisionally agreed:
	for the purpose of identifying an		1a. Access to the EES as a tool
	unknown suspect, perpetrator or		for the purpose of identifying an
	suspected victim of a terrorist		unknown suspect, perpetrator or
	offence or other serious criminal		suspected victim of a terrorist
	offence shall be allowed where the		offence or other serious criminal
	conditions listed in paragraph 1 are		offence shall be allowed where the
	met and the consultation, as a		conditions listed in paragraph 1 are
	matter of priority, of the data stored		met and the consultation, as a matter
	in the databases that are technically		of priority, of the data stored in the
	and legally accessible by Europol		databases that are technically and
	has not made it possible to verify the		legally accessible by Europol has not
	identity of the person concerned.		made it possible to identify the
	Since fingerprint data of visa-		person concerned.
	holding third-country nationals are		Since fingerprint data of visa-holding
	only stored in the VIS, a request for		third-country nationals are only
	consultation of the VIS on the same		stored in the VIS, a request for
	data subject may be submitted in		consultation of the VIS on the same
	parallel to a request for consultation		data subject may be submitted in
	of the EES in accordance with the		parallel to a request for consultation
	conditions laid down in Decision		of the EES in accordance with the
	2008/633/JHA provided that the		conditions laid down in Decision
	consultation, as a matter of priority,		2008/633/JHA.
	of the data stored in the databases		
	that are technically and legally		
	accessible by Europol has not made		
	it possible to verify the identity of		
2. The conditions laid down in	<i>the person concerned.</i> 2. The conditions laid down in	2. The conditions laid down in	
Article 29 (2) to (5) shall apply	Article 29 $\frac{(2)}{(3)}$ to (5) shall apply	Article 29 ([] 3) to (5) shall apply	<i>Provisionally agreed:</i> 2. The conditions laid down in
accordingly.	accordingly.	accordingly.	Article 29 (3) to (5) shall apply
accordingry.		accordingly.	accordingly.
			accordingly.

		2a. <u>In addition, the access to the</u> <u>EES as a criminal identification tool</u> <u>for the purpose of identifying an</u> <u>unknown suspect, perpetrator or</u> <u>suspected victim of a terrorist</u> <u>offence or other serious criminal</u> <u>offence shall be allowed only if prior</u> <u>consultation of data stored in any</u>	Covered under par. 1a above. Provisionally agreed: deleted
		information processing systems that are technically and legally accessible by Europol did not lead to the establishment of the identity of the data subject. Since fingerprint data of visa holding third country nationals are only stored in the VIS, a request	
		for consultation of the VIS on the same data subject may be submitted in parallel to a request for consultation of the EES. The consultation of the VIS shall be carried out in accordance with the	
3. Europol's designated	3. Europol's designated	conditions laid down in Decision2008/633/JHA.3.Europol's designated	Provisionally agreed:
authority may submit a reasoned	authority may submit a reasoned	authority may submit a reasoned	3. Europol's designated
electronic request for the	electronic request for the	electronic request for the consultation	authority may submit a reasoned
consultation of all data or a specific	consultation of all data or a specific	of all data or a specific set of data	electronic request for the
set of data stored in the EES to the	set of data stored in the EES to the	stored in the EES to the Europol	consultation of all data or a specific set of data stored in the EES to the
Europol central access point referred to in Article 27. Upon receipt of a	Europol central access point referred to in Article 27. Upon receipt of a	central access point referred to in Article 27. Upon receipt of a request	Europol central access point referred
request for access the Europol central	request for access the Europol central	for access the Europol central access	to in Article 27. Upon receipt of a
access point shall verify whether the	access point shall verify whether the	point shall verify whether the	request for access the Europol central
conditions for access referred to in	conditions for access referred to in	conditions for access referred to in	access point shall verify whether the

paragraph 1 are fulfilled. If all	paragraph 1 are fulfilled. If all	paragraphs 1 and 2 are fulfilled. If all	conditions for access referred to in
conditions for access are fulfilled, the	conditions for access are fulfilled, the	conditions for access are fulfilled, the	paragraph <u>s</u> 1 <u>and 1a</u> are fulfilled. If
duly authorised staff of the central	duly authorised staff of the central	duly authorised staff of the central	all conditions for access are fulfilled,
access point(s) shall process the	access point(s) shall process the	access point(s) shall process the	the duly authorised staff of the
requests. The EES data accessed	requests. The EES data accessed	requests. The EES data accessed	central access point(s) shall process
shall be transmitted to the operating	shall be transmitted to the operating	shall be transmitted to the operating	the requests. The EES data accessed
units referred to in Article 27 (1) in	units referred to in Article 27 (1) in	units referred to in Article 27 (1) in	shall be transmitted to the operating
such a way as not to compromise the	such a way as not to compromise the	such a way as not to compromise the	units referred to in Article 27 (1) in
security of the data.	security of the data.	security of the data.	such a way as not to compromise the
			security of the data.
4. The processing of	4. The processing of	4. The processing of	
information obtained by Europol	information obtained by Europol	information obtained by Europol	
from consultation with EES data	from consultation with EES data	from consultation with EES data	
shall be subject to the authorisation	shall be subject to the authorisation	shall be subject to the authorisation	
of the Member State of origin. That	of the Member State of origin. That	of the Member State of origin. That	
authorisation shall be obtained via	authorisation shall be obtained via	authorisation shall be obtained via	
the Europol national unit of that	the Europol national unit of that	the Europol national unit of that	
Member State.	Member State.	Member State.	

CHAPTER V	CHAPTER V	CHAPTER V	
Retention and amendment of the	Retention and amendment of the	Retention and amendment of the	
data	data	data	
Article 31	Article 31	Article 31	
Retention period for data storage	Retention period for data storage	Retention period for data storage	
1. Each entry/exit record or	1. Each entry/exit record or	1 Each entry/exit record or	
refusal of entry record linked to an	refusal of entry record linked to an	refusal of entry record linked to an	Compromise proposal relating to the
individual file shall be stored for five	individual file shall be stored <i>in the</i>	individual file shall be stored for five	time-limits throughout the article as
years following the date of the exit	EES Central System for five two	years following the date of the exit	already broadly supported by
record or of the refusal of entry	years following the date of the exit	record or of the refusal of entry	counsellors. Presidency proposes to
record, as applicable.	record or of the refusal of entry	record, as applicable.	maintain this position (5 years for
	record, as applicable.		overstayers, 3 years for non-
			overstayers).
			Provisionally agreed:
			1. Each entry/exit record or
			refusal of entry record linked to an
			individual file shall be stored <i>in the</i>
			EES Central System for three years
			following the date of the exit record
			or of the refusal of entry record, as
			applicable.
2. Each individual file together	2. Each individual file together	2. Each individual file together	Provisionally agreed:
with the linked entry/exit record(s) or	with the linked entry/exit record(s) or	with the linked entry/exit record(s) or	2. Each individual file together
refusal of entry records shall be	refusal of entry records shall be	refusal of entry records shall be	with the linked entry/exit record(s) or
stored in the EES for five years and	stored in the EES <i>Central System</i> for	stored in the EES for five years and	refusal of entry records shall be
one day following the date of the last	<i>two</i> years and one day following the	one day following the date of the last	stored in the EES <i>Central System</i> for
exit record if there is no entry record	date of the last exit record if there is	exit record if there is no entry record	<i>three</i> years and one day following
within five years from that last exit	no entry record within <i>two</i> years	within five years from that last exit	the date of the last exit record if there
record or refusal of entry record.	from that last exit record or refusal of	record or refusal of entry record.	is no entry record within <i>three</i> years
	entry record.		from that last exit record or refusal of

			entry record.
3. If there is no exit record following the date of expiry of the authorised period of stay, the data shall be stored for a period of five years following the last day of the authorised stay. The EES shall automatically inform the Member States three months in advance of the scheduled deletion of data on overstayers in order for them to adopt the appropriate measures.	3. If there is no exit record following the date of expiry of the authorised period of stay, the data shall be stored for a period of five <i>four</i> years following the last day of the authorised stay. The In accordance with the information mechanism provided for in Article 11, the EES shall automatically inform the Member States three months in advance of the scheduled deletion of data on overstayers in order for them to adopt the appropriate measures.	3. If there is no exit record following the date of expiry of the [] period of <u>authorised</u> stay, the data shall be stored for a period of five years following the last day of the authorised stay. The EES shall automatically inform the Member States three months in advance of the scheduled deletion of data on overstayers in order for them to adopt the appropriate measures <u>that could</u> <u>lead to the detection of the overstayer</u> and where possible and applicable <u>contribute to the return of the</u> overstayer.	 <i>Provisionally agreed:</i> 3. If there is no exit record following the date of expiry of the period of <u>authorised</u> stay, the data shall be stored for a period of five years following the last day of the authorised stay. The EES shall automatically inform the Member States three months in advance of the scheduled deletion of data on overstayers in order for them to adopt the appropriate measures.
4. By way of derogation to paragraphs (2) and (3), the entry/exit record(s) generated by third country nationals in their condition of family members of a Union citizen to whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement under Union law and who do not hold a residence card referred to under Directive 2004/38/EC, shall be stored in the EES for a maximum of one year after the last exit record.	4. By way of derogation to <i>from</i> paragraphs (2) and (3), the entry/exit record(s) generated by third country nationals in their condition of <i>who are</i> family members of a Union citizen to whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement under Union law and who do not hold a residence card referred to under Directive 2004/38/EC, shall be stored in the EES for a maximum of one year after the last exit record.	4. By way of derogation of paragraph (1) [] the entry/exit record(s) generated by third country nationals in their condition <u>members</u> of family [] of a Union citizen to whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement under Union law and who do not hold a residence card referred to under Directive 2004/38/EC, shall be stored in the EES for a maximum of one year after the last exit record. If there is no exit record the data shall be stored for a period of five years from the last entry record.	 Provisionally agreed: 4. By way of derogation from paragraph (1) each entry/exit record(s) generated by third country nationals who are family members of a Union citizen to whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States on the one hand and a third country on the other; and who do not hold a residence card referred to under Directive 2004/38/EC or a residence permit pursuant to

			Regulation (EC) No 1030/2002 shall be stored in the EES for a maximum of one year after the exit . If there is no exit record the data shall be stored for a period of five years from the last entry record.
 5. Upon expiry of the retention period referred to in paragraphs 1 and 2 such data shall automatically be erased from the Central System Article 32 Amendment of data and advance data deletion 1. The Member State 	 5. Upon expiry of the retention period referred to in paragraphs 1 and 2 to 4 such data shall automatically be erased from the Central System. Article 32 Amendment of data and advance data deletion The Member State 	 5. Upon expiry of the retention period referred to in paragraphs 1[], 2 and 4 such data shall automatically be erased from the Central System. Article 32 Amendment of data and advance data deletion 1. The Member State 	 <i>Provisionally agreed:</i> 5. Upon expiry of the retention period referred to in paragraphs 1 to <i>4</i> such data shall automatically be erased from the Central System.
responsible shall have the right to amend data which it has introduced into the EES, by correcting or deleting such data.	responsible shall have the right to amend data which it has introduced into the EES, by correcting or deleting rectifying, completing or erasing such data.	responsible shall have the right to amend data which it has introduced into the EES, by correcting or deleting such data.	1. The Member State responsible shall have the right to amend data which it has introduced into the EES, by correcting or deleting rectifying, completing or erasing such data.
2. If the Member State responsible has evidence to suggest that data recorded in the EES are factually inaccurate or that data were processed in the EES in contravention of this Regulation, it shall check the data concerned and, if necessary, amend or erase them without delay from the EES and, where applicable, from the list of	2 If the Member State responsible has evidence to suggest that data recorded in the EES are factually inaccurate, <i>incomplete</i> or that data were processed in the EES in contravention of this Regulation, it shall check the data concerned and, if necessary, amend <i>shall rectify</i> , <i>complete</i> or erase them without delay from the EES and, where applicable,	2. If the Member State responsible has evidence to suggest that data recorded in the EES are factually inaccurate or that data were processed in the EES in contravention of this Regulation, it shall check the data concerned and, if necessary, amend or erase them without delay from the EES and, where applicable, from the list of	 Provisionally agreed: 2 If the Member State responsible has evidence to suggest that data recorded in the EES are factually inaccurate, <i>incomplete</i> or that data were processed in the EES in contravention of this Regulation, it shall check the data concerned and, if necessary, amend shall rectify, complete or erase them without delay

identified persons referred to in	from the list of identified persons	identified persons referred to in	from the EES and, where applicable,
Article 11. This may also be done at	referred to in Article 11. This may	Article 11. This may also be done at	from the list of identified persons
the request of the person concerned	also be done at the request of the	the request of the person concerned	referred to in Article 11. This may
in accordance with Article 46.	person concerned in accordance with	in accordance with Article 46.	also be done at the request of the
	Article 46.		person concerned in accordance with
			Article 46.
3. By way of derogation from	3. By way of derogation from	3. By way of derogation from	Provisionally agreed:
paragraphs 1 and 2, if a Member	paragraphs 1 and 2, if a Member	paragraphs 1 and 2, if a Member	3. By way of derogation from
State other than the Member State	State other than the Member State	State other than the Member State	paragraphs 1 and 2, if a Member
responsible has evidence to suggest	responsible has evidence to suggest	responsible has evidence to suggest	State other than the Member State
that data recorded in the EES are	that data recorded in the EES are	that data recorded in the EES are	responsible has evidence to suggest
factually inaccurate or that data were	factually inaccurate, <i>incomplete</i> or	factually inaccurate or that data were	that data recorded in the EES are
processed in the EES in	that data were processed in the EES	processed in the EES in	factually inaccurate, <i>incomplete</i> or
contravention of this Regulation, it	in contravention of this Regulation, it	contravention of this Regulation, it	that data were processed in the EES
shall check the data concerned if it is	shall check the data concerned if it is	shall check the data concerned if it is	in contravention of this Regulation, it
possible to do this without consulting	possible to do this without consulting	possible to do this without consulting	shall check the data concerned if it is
the Member State responsible and, if	the Member State responsible and, if	the Member State responsible and, if	possible to do this without consulting
necessary, amend or erase them from	necessary, amend rectify, complete	necessary, amend or erase them from	the Member State responsible and, if
the EES without delay and, where	or erase them <i>without delay</i> from the	the EES without delay and, where	necessary, amend rectify, complete
applicable, from the list of identified	EES without delay and, where	applicable, from the list of identified	or erase them <i>without delay</i> from the
persons referred to in Article 11.	applicable, from the list of identified	persons referred to in Article 11.	EES without delay and, where
Otherwise the Member State shall	persons referred to in Article 11.	Otherwise the Member State-shall	applicable, from the list of identified
contact the authorities of the Member	Otherwise the Member State shall	contact the authorities of the Member	persons referred to in Article 11.
State responsible within a time limit	contact the authorities of the Member	State responsible within a time limit	Otherwise the Member State shall
of 14 days and the Member State	State responsible within a time limit	of 14 days and the Member State	contact the authorities of the Member
responsible shall check the accuracy	of 7 days and the Member State	responsible shall check the accuracy	State responsible within a time limit
of the data and the lawfulness of its	responsible shall check the accuracy	of the data and the lawfulness of its	of 7 days and the Member State
processing within a time limit of one	of the data and the lawfulness of its	processing within a time limit of one	responsible shall check the accuracy
month. This may also be done at the	processing within a time limit of one	month. This may also be done at the	of the data and the lawfulness of its
request of the person concerned in	month 14 days. This may also be	request of the person concerned in	processing within a time limit of one
accordance with Article 46.	done at the request of the person	accordance with Article 46.	month. This may also be done at the
	concerned in accordance with Article		request of the person concerned in
	46.		accordance with Article 46.

4. In the event that the Member	4. In the event that the Member	4. In the event that $[\ldots] \underline{a}$	Provisionally agreed
State responsible or a Member State	State responsible or a Member State	Member State [] has evidence to	4. In the event that <u>a</u> Member
other than the Member State	other than the Member State	suggest that visa-related data	State has evidence to suggest that
responsible has evidence to suggest	responsible has evidence to suggest	recorded in the EES are factually	visa-related data recorded in the EES
that visa-related data recorded in the	that visa-related data recorded in the	inaccurate or that such data were	are factually inaccurate, <i>incomplete</i>
EES are factually inaccurate or that	EES are factually inaccurate,	processed in the EES in	or that such data were processed in
such data were processed in the EES	<i>incomplete</i> or that such data were	contravention of this Regulation they	the EES in contravention of this
in contravention of this Regulation	processed in the EES in	shall first check the accuracy of these	Regulation they shall first check the
they shall first check the accuracy of	contravention of this Regulation they	data against the VIS and if necessary	accuracy of these data against the
these data against the VIS and if	shall first check the accuracy of these	shall amend them in the EES. Should	VIS and if necessary shall amend
necessary shall amend them in the	data against the VIS and if necessary	the data recorded in the VIS be the	rectify, complete or erase them in the
EES. Should the data recorded in the	shall amend rectify, complete or	same as in the EES, they shall inform	EES. Should the data recorded in the
VIS be the same as in the EES, they	erase them in the EES. Should the	the Member State responsible for	VIS be the same as in the EES, they
shall inform the Member State	data recorded in the VIS be the same	entering those data in the VIS	shall inform the Member State
responsible for entering those data in	as in the EES, they shall inform the	immediately through the	responsible for entering those data in
the VIS immediately through the	Member State responsible for	infrastructure of the VIS in	the VIS immediately through the
infrastructure of the VIS in	entering those data in the VIS	accordance with Article 24(2) of	infrastructure of the VIS in
accordance with Article 24(2) of	immediately through the	Regulation (EC) No 767/2008. The	accordance with Article 24(2) of
Regulation (EC) No 767/2008. The	infrastructure of the VIS in	Member State responsible for	Regulation (EC) No 767/2008. The
Member State responsible for	accordance with Article 24(2) of	entering the data in the VIS shall	Member State responsible for
entering the data in the VIS shall	Regulation (EC) No 767/2008. The	check the data concerned and if	entering the data in the VIS shall
check the data concerned and if	Member State responsible for	necessary correct or delete them	check the data concerned and if
necessary correct or delete them	entering the data in the VIS shall	immediately from the VIS and	necessary correct or delete rectify,
immediately from the VIS and	check the data concerned and if	inform the Member State []	<i>complete or erase</i> them immediately
inform the Member State responsible	necessary correct or delete rectify,	concerned which shall, if necessary,	from the VIS and inform the Member
or the Member State to which the	complete or erase them immediately	amend or delete them from the EES	State <u>concerned</u> which shall, if
request has been made which shall, if	from the VIS and inform the Member	without delay and, where applicable,	necessary, amend or delete rectify,
necessary, amend or delete them	State responsible or the Member	from the list of identified overstayers	<i>complete or erase</i> them from the
from the EES without delay and,	State to which the request has been	referred to in Article 11.	EES without delay and, where
where applicable, from the list of	made which shall, if necessary,		applicable, from the list of identified
identified overstayers referred to in	amend or delete rectify, complete or		persons referred to in Article 11.
Article 11.	erase them from the EES without		
	delay and, where applicable, from the		

5. The data of identified persons referred to in Article 11 shall be deleted without delay from the list referred to in that Article and shall be corrected in the EES where the third country national provides evidence, in accordance with the national law of the Member State responsible or of the Member State to which the request has been made, that he or she was forced to exceed the authorised duration of stay due to unforeseeable and serious events, that he or she has acquired a legal right to stay or in case of errors. The third country national shall have access to an	list of identified overstayers persons referred to in Article 11. 5 The data of identified persons referred to in Article 11 shall be deleted erased without delay from the list referred to in that Article and shall be corrected rectified or completed in the EES where the third country national provides evidence, in accordance with the national law of the Member State responsible or of the Member State to which the request has been made, that he or she was forced to exceed the authorised duration of stay due to unforeseeable and serious events, that he or she has acquired a legal right to stay or in case of errors. The third country	5. The data of identified persons referred to in Article 11 shall be deleted without delay from the list referred to in that Article and shall be corrected in the EES where the third country national provides evidence, in accordance with the national law of the Member State responsible or of the Member State to which the request has been made, that he or she was forced to exceed the [] duration of <u>authorised</u> stay due to unforeseeable and serious events, that he or she has acquired a legal right to <u>short</u> stay or in case of errors. The third country national shall have	Provisionally agreed:5The data of identified personsreferred to in Article 11 shall bedeleted erased without delay fromthe list referred to in that Article andshall be corrected rectified orcompleted in the EES where the thirdcountry national provides evidence,in accordance with the national lawof the Member State responsible orof the Member State to which therequest has been made, that he or shewas forced to exceed the duration ofauthorised stay due to unforeseeableand serious events, that he or she has
 the data is amended. 6. Where a third country national has acquired the nationality of a Member State or has fallen 	 effective judicial remedy to ensure the data is amended rectified, completed or erased. 6. Where a third country national has acquired the nationality of a Member State or has fallen 	 ensure the data is amended. 6. Where a third country national has acquired the nationality of a Member State or has fallen 	in case of errors. <u>Without prejudice</u> <u>to any available administrative or</u> <u>non-judicial remedy</u> , the third country national shall have access to an effective judicial-remedy to ensure the data is amended rectified , completed or erased. Provisionally agreed subject to confirmation by Council 6. Where a third country
under the scope of Article 2(3)		under the scope of Article 2(3) before	•
1	under the scope of Article 2(3)	1	national has acquired the nationality
before the expiry of the period	before the expiry of the period	the expiry of the period referred to in	of a Member State or has fallen

referred to in Article 31, the individual file and the records linked to it in accordance with Articles 14 and 15 shall be deleted without delay from the EES as well as, where applicable, from the list of identified persons referred to in Article 11:	referred to in Article 31, the individual file and the records linked to it in accordance with Articles 14 and 15 shall <i>without delay and in</i> <i>any event no later than 48 hours</i> <i>from the moment the relevant</i> <i>Member State becomes aware of</i> <i>that fact,</i> be deleted without delay from the EES as well as, where applicable, from the list of identified persons referred to in Article 11:	Article 31, the individual file and the <u>entry/exit</u> records linked to it in accordance with Articles 14 and 15 <u>and refusal of entry records in</u> <u>accordance with Article 16</u> shall be deleted without delay from the EES as well as, where applicable, from the list of identified persons referred to in Article 11:	under the scope of Article 2(3) before the expiry of the period referred to in Article 31, the individual file and the <u>entry/exit</u> records linked to it in accordance with Articles 14 and 15 <u>and refusal</u> of entry records in accordance with <u>Article 16</u> shall be deleted from the EES as well as, where applicable, from the list of identified persons referred to in Article 11 without delay, and in any case not later than 5 working days from when the third country national has acquired the nationality of a Member State or has fallen under the scope of Article 2(3) before the expiry of the period referred to in Article 31:
(a) by the Member State the	(a) by the Member State the	(a) by the Member State the	
nationality of which he or she has	nationality of which he or she has	nationality of which he or she has	
acquired, or	acquired, or	acquired, or	
(b) the Member State that issued the residence permit or card.	(b) the Member State that issued the residence permit or card.	(b) the Member State that issued the residence permit or card <u>or long</u> <u>stay visa.</u>	 <i>Provisionally agreed:</i> (b) the Member State that issued the residence permit or card <u>or long</u> stay visa.
Where a third country national has	Where a third country national has	Where a third country national has	Provisionally agreed:
acquired the nationality of Andorra,	acquired the nationality of Andorra,	acquired the nationality of Andorra,	Where a third country national has
Monaco or San Marino he or she	Monaco or San Marino he or she	Monaco, [] San Marino <u>or where</u>	acquired the nationality of Andorra,
shall inform the competent	shall inform the competent	<u>the third country national is in a</u>	Monaco, San Marino or where the
authorities of the Member State he or	authorities of the Member State he or	<u>possession of a passport issued by the</u>	third country national is in a
she next enters of this change. That	she next enters of this change. That	<u>Vatican City State</u> he or she shall	possession of a passport issued by
Member State shall delete their data	Member State shall delete their data	inform the competent authorities of	the Vatican City State he or she shall
without delay from the EES. The	without delay from the EES. The	the Member State he or she next	inform the competent authorities of

individual shall have access to an effective judicial remedy to ensure the data is deleted.	individual shall have access to an effective judicial remedy to ensure the data is deleted.	enters of this change. That Member State shall delete their data without delay from the EES. The individual shall have access to an effective judicial remedy to ensure the data is deleted.	the Member State he or she next enters of this change. That Member State shall delete their data without delay from the EES. The individual shall have access to an effective judicial remedy to ensure the data is deleted.
7. The Central System shall immediately inform all Member States of the erasure of data from the EES and where applicable from the list of identified persons referred to in Article 11.	7. The Central System shall immediately inform all Member States of the erasure of data from the EES and where applicable from the list of identified persons referred to in Article 11.	7. The Central System shall immediately inform all Member States of the erasure of data from the EES and where applicable from the list of identified persons referred to in Article 11.	
		8. In case another Member State than the Member State responsible has amended or erased data in accordance with this Regulation, this Member State shall be responsible for the amendments or erasure. The system will record all amendments and erasures applied.	Provisionally agreed:8.In case another Member Statethan the Member State responsiblehas amended or erased data inaccordance with this Regulation, thisMember State shall be responsiblefor the amendments or erasure. Thesystem will record all amendmentsand erasures applied.

CHAPTER VI	CHAPTER VI	CHAPTER VI	
Development, Operation and	Development, Operation and	Development, Operation and	
Responsibilities	Responsibilities	Responsibilities	
Article 33	Article 33	Article 33	
Adoption of implementing measures	Adoption of implementing measures	Adoption of implementing measures	
by the Commission prior to	by the Commission prior to	by the Commission prior to	
development	development	development	
The Commission shall adopt the	The Commission shall adopt the	The Commission shall adopt the	Provisionally agreed:
following measures necessary for the	following measures necessary for the	following measures necessary for the	The Commission shall adopt the
development and technical	development and technical	development and technical	following measures necessary for the
implementation of the Central	implementation of the Central	implementation of the Central	development and technical
System, the National Uniform	System, the National Uniform	System, the National Uniform	implementation of the Central
Interfaces, and the Communication	Interfaces, and the <i>secure and</i>	Interfaces, and the Communication	System, the National Uniform
Infrastructure, in particular measures	encrypted Communication	Infrastructure, in particular measures	Interfaces, and the Communication
for:	Infrastructure, in particular measures	for:	Infrastructure, in particular measures
	for:		for:
(a) the specifications for the	(a) the specifications for the	(a) the specifications for the	Provisionally agreed:
resolution and use of fingerprints for	resolution and use of fingerprints for	<u>quality</u> , resolution and use of	(a) the specifications for the
biometric verification and	biometric verification and	fingerprints for biometric verification	<u>quality</u> , resolution and use of
identification in the EES;	identification in the EES;	and identification in the EES;	fingerprints for biometric verification
			and identification in the EES;
	(aa) the quality standard and		This is covered by (a1) below.
	specifications for the use of the		Deletion provisionally agreed.
	facial image including where		
	extracted electronically from the		
	eMRTD or the VIS;		
		(a1) the specifications for the	Compromise provisionally agreed:
		<u>quality</u> , <u>resolution and use of facial</u>	(a1) the specifications for the
		image for biometric verification and	quality, resolution and use of <i>the</i>
		identification in the EES;	facial image for biometric
			verification and identification in the

			EES including where taken live or extracted electronically from the eMRTD;
(b) entering the data in accordance with Article 14, 15, 16, 17 and 18;	(b) entering the data in accordance with Article 14, 15, 16, 17 and 18;	(b) entering the data in accordance with Article 14, 15, 16, 17 and 18;	
(c) accessing the data in accordance with Articles 21 to 30;	(c) accessing the data in accordance with Articles 21 to 30;	(c) accessing the data in accordance with Articles 21 to 30;	
(d) amending, deleting and advance deleting of data in accordance with Article 32;	(d) amending, deleting and advance deleting of data in accordance with Article 32;	(d) amending, deleting and advance deleting of data in accordance with Article 32;	
(e) keeping and accessing the records in accordance with Article 41;	(e) keeping and accessing the records in accordance with Article 41;	(e) keeping and accessing the records in accordance with Article 41;	
(f) performance requirements;	(f) performance requirements;	 (f) performance requirements, including minimal specifications for technical equipment and requirements on the biometric performance of the EES in particular in terms of the required False Positive Identification Rate, False Negative Identification Rate and Failure to Enrol Rate; 	Provisionally agreed:(f) performance requirements,including minimal specifications fortechnical equipment andrequirements on the biometricperformance of the EES in particularin terms of the required FalsePositive Identification Rate, FalseNegative Identification Rate andFailure to Enrol Rate;
(g) the specifications and conditions for the web-service referred to in Article 12;	(g) the specifications and conditions for the web-service referred to in Article 12, <i>including</i> <i>provisions for the protection of the</i> <i>data where provided by or to</i> <i>carriers</i> ;	(g) the specifications and conditions for the web-service referred to in Article 12;	Provisionally agreed:(g) the specifications andconditions for the web-servicereferred to in Article 12, includingspecific provisions for the protectionof the data where provided by or tocarriers;

(h) the common leaflet referred t_{0} (h) t_{0} ((h) the common leaflet referred	(h) []	Provisionally agreed:
to Article 44(3);	to Article 44(3);		Deleted
(i) the specifications and	(i) the specifications and	(i) the specifications and	Provisionally agreed:
conditions for the website referred to	conditions for the website referred to	conditions for the provision of	(i) the specifications and
in Article 44(3);	in Article 44(3);	information in writing, and in another	conditions for the provision of
		effective way [] referred to in	information in writing, by any
		Article 44(3);	appropriate means, referred to in
			Article 44(3);
			Commission suggests to delete this
			point because this measure does not
			need to be adopted prior to the start
			of the development of the EES. See
			corresponding proposal in art 44
(j) the establishment and the	(j) the establishment and the	(j) the establishment and the	
high level design of the	high level design of the	high level design of the	
interoperability referred to in	interoperability referred to in	interoperability referred to in	
Article 7;	Article 7;	Article 7;	
(k) for the specifications and	(k) for the specifications and	(k) for the specifications and	
conditions for the central repository	conditions for the central repository	conditions for the central repository	
referred in Article 57 (2).	referred in Article 57 (2).	referred in Article 57 (2);	
Teleffed III Afficie 57 (2).	Teleffed III Africle 37 (2).		
			Provisionally agreed:
		from which the EES is to start	deleted
		operations, after the conditions	
		referred to in Article 60 are met;	
		(m) <u>the establishment of the list</u>	Provisionally agreed:
		referred to in Article 11(2) and	(m) the establishment of the list
		procedure for distribution of the list	referred to in Article 11(2) and
		to Member States;	procedure to make the list available
			to Member States;
		(n) the specification for technical	Provisionally agreed:

		solutions to connect central access	(n) the specification for technical
		points in accordance with Articles 28	solutions to connect central access
		and 29 and for a technical solution to	points in accordance with Articles 28
			-
		collect the statistical data required in	and 29 and for a technical solution to
		accordance with Article 64(8).	collect the statistical data required in
			accordance with Article 64(8).
Those implementing acts shall be	Those implementing acts shall be	Those implementing acts shall be	Provisionally agreed:
adopted in accordance with the	adopted in accordance with the	adopted as soon as possible in	Those implementing acts shall be
examination procedure referred to in	examination procedure referred to in	accordance with the examination	adopted in accordance with the
Article 61(2).	Article 61(2).	procedure referred to in Article	examination procedure referred to in
For the adoption of the measures set	For the adoption of the measures set	61(2).	Article 61(2).
down for the establishment and the	down for the establishment and the	For the adoption of the measures set	For the adoption of the measures set
high level design of the	high level design of the	down for the establishment and the	down for the establishment and the
interoperability specified in point (j),	interoperability specified in point (j),	high level design of the	high level design of the
the Committee set up by Article 61	the Committee set up by Article 61	interoperability specified in point (j),	interoperability specified in point (j),
of this Regulation shall consult the	of this Regulation shall consult the	the Committee set up by Article 61	the Committee set up by Article 61
VIS Committee set up by Article 49	VIS Committee set up by Article 49	of this Regulation shall consult the	of this Regulation shall consult the
of Regulation (EC) 767/2008.	of Regulation (EC) 767/2008.	VIS Committee set up by Article 49	VIS Committee set up by Article 49
		of Regulation (EC) 767/2008.	of Regulation (EC) 767/2008.
Article 34	Article 34	Article 34	
Development and operational	Development and operational	Development and operational	
management	management	management	
1. eu-LISA shall be responsible	eu-LISA shall be responsible for the	1. eu-LISA shall be responsible	Provisionally agreed:
for the development of the Central	development of the Central System,	for the development of the Central	1. eu-LISA shall be responsible
System, the National Uniform	the National Uniform Interfaces, the	System, the National Uniform	for the development of the Central
Interfaces, the Communication	secure and encrypted	Interfaces, the Communication	System, the National Uniform
Infrastructure and the Secure	Communication Infrastructure and	Infrastructure and the Secure	Interfaces, the Communication
Communication Channel between the	the Secure Communication Channel	Communication Channel between the	Infrastructure and the Secure
EES Central System and the VIS	between the EES Central System and	EES Central System and the VIS	Communication Channel between
Central System. It shall also be	the VIS Central System. It shall also	Central System. It shall also be	the EES Central System and the VIS
responsible for the development of	be responsible for the development	responsible for the development of	Central System. It shall also be
the web service referred to in Article	of the web service referred to in	the web service referred to in Article	responsible for the development of
12 in accordance with the	Article 12 in accordance with the	12 in accordance with the	the web service referred to in Article

specifications and conditions adopted	specifications and conditions adopted	specifications and conditions adopted	12 and the data repository to in
in accordance with the examination	in accordance with the examination	in accordance with the examination	Article 57(2) in accordance with the
procedure referred to in Article	procedure referred to in Article	procedure referred to in Article	specifications and conditions adopted
¹ 61(2).	61(2).	61(2).	in accordance with the examination
eu-LISA shall define the design of	eu-LISA shall define the design of	eu-LISA shall define the design of	procedure referred to in Article
the physical architecture of the	the physical architecture of the	the physical architecture of the	61(2).
system including its Communication	system including its secure and	system including its Communication	eu-LISA shall define the design of
Infrastructure as well as the technical	encrypted Communication	Infrastructure as well as the technical	the physical architecture of the
specifications and their evolution as	Infrastructure as well as the technical	specifications and their evolution as	system including its Communication
regards the Central System, the	specifications and their evolution as	regards the Central System, the	Infrastructure as well as the technical
Uniform Interfaces, the Secure	regards the Central System, the	Uniform Interfaces, the Secure	specifications and their evolution as
Communication Channel between the	Uniform Interfaces, the Secure	Communication Channel between the	regards the Central System, the
EES Central System and the VIS	Communication Channel between the	EES Central System and the VIS	Uniform Interfaces, the Secure
Central System and the	EES Central System and the VIS	Central System and the	Communication Channel between
Communication Infrastructure, which	Central System and the secure and	Communication Infrastructure, which	the EES Central System and the VIS
shall be adopted by the Management	encrypted Communication	shall be adopted by the Management	Central System and the
Board, subject to a favourable	Infrastructure-, which shall be	Board, subject to a favourable	Communication Infrastructure, the
opinion of the Commission. eu-LISA	adopted by the Management Board,	opinion of the Commission. eu-LISA	web service referred to in Article 12
shall also implement any necessary	subject to a favourable opinion of the	shall also implement any necessary	and the data repository referred to
adaptations to the VIS deriving from	Commission. eu-LISA shall also	adaptations to the VIS deriving from	Article 57(2), which shall be adopted
the establishment of interoperability	implement any necessary adaptations	the establishment of interoperability	by the Management Board, subject to
with the EES as well as from the	to the VIS deriving from the	with the EES as well as from the	a favourable opinion of the
implementation of the amendments	establishment of interoperability with	implementation of the amendments to	Commission. eu-LISA shall also
to Regulation (EC) No 767/2008	the EES as well as from the	Regulation (EC) No 767/2008	implement any necessary adaptations
referred to in Article 55.	implementation of the amendments	referred to in Article 55.	to the VIS deriving from the
	to Regulation (EC) No 767/2008		establishment of interoperability with
eu-LISA shall develop and	referred to in Article 55.	eu-LISA shall develop and	the EES as well as from the
implement the Central System, the		implement the Central System, the	implementation of the amendments
National Uniform Interfaces, the	eu-LISA shall develop and	National Uniform Interfaces, the	to Regulation (EC) No 767/2008
Secure Communication Channel	implement the Central System, the	Secure Communication Channel	referred to in Article 55.
between the EES Central System and	National Uniform Interfaces, the	between the EES Central System and	
the VIS Central System, and the	Secure Communication Channel	the VIS Central System, and the	eu-LISA shall develop and
Communication Infrastructure as	between the EES Central System and	Communication Infrastructure as	implement the Central System, the

soon as possible after the entry into force of this Regulation and the adoption by the Commission of the measures provided for in Article 33. The development shall consist of the elaboration and implementation of the technical specifications, testing and overall project coordination.	the VIS Central System, and the secure and encrypted Communication Infrastructure as soon as possible after the entry into force of this Regulation and the adoption by the Commission of the measures provided for in Article 33. By developing and implementing the Central System, the National Uniform Interfaces, the Secure Communication Channel between the EES Central System and the VIS Central System, and the secure and encrypted Communication Infrastructure, eu –LISA shall:	soon as possible after the entry into force of this Regulation and the adoption by the Commission of the measures provided for in Article 33. The development shall consist of the elaboration and implementation of the technical specifications, testing and overall project coordination.	National Uniform Interfaces, the Secure Communication Channel between the EES Central System and the VIS Central System, and the Communication Infrastructure, the web service referred to in Article 12 and the data repository referred to <u>Article 57(2)</u> as soon as possible after the entry into force of this Regulation and the adoption by the Commission of the measures provided for in Article 33. The development shall consist of the elaboration and implementation of the technical specifications, testing and overall project coordination. <i>Provisionally agreed:</i> By developing and implementing the Central System, the National Uniform Interfaces, the Secure Communication Channel between the EES Central System and the VIS Central System, and the secure and encrypted Communication Infrastructure, eu –LISA shall:
	(a) perform a risk assessment as part of the development of the EES;		 Provisionally agreed: (a) perform a security risk assessment prior to as part of-the development of the EES;
	(b) follow the principles of privacy by design and by default		Provisionally agreed: (b) follow the principles of

	during the entire lifecycle of the system development; (c) update the risk assessment for the VIS to take into account the new connection with the EES and follow up by implementing any additional security measures highlighted by the updated risk		privacy by design and by default during the entire lifecycle of the system development; Provisionally agreed : (c) conduct a security risk assessment regarding the interoperability with the VIS referred to in Article 7 and assess the required security measures
	assessment. The development shall consist of the elaboration and implementation of the technical specifications, testing and overall project coordination.		needed for its implementation. Provisionally agreed: Deleted
2. During the designing and development phase, a Programme Management Board composed of a maximum of 10 members shall be established. It shall be composed of eight members appointed by eu- LISA's Management Board from among its members, the Chair of the EES Advisory Group referred to in Article 62 and one member appointed by the Commission. The members appointed by eu-LISA's Management Board shall be elected only from those Member States which are fully bound under Union law by the legislative instruments governing the development,	 2. During the designing and development phase, a Programme Management Board composed of a maximum of 10 members shall be established. It shall be composed of eight members appointed by eu-LISA's Management Board from among its members, the Chair of the EES Advisory Group referred to in Article 62 and one member appointed by the Commission. The members appointed by eu-LISA's Management Board shall be elected only from those Member States which are fully bound under Union law by the legislative instruments governing the development, 	2. During the designing and development phase, a Programme Management Board composed of a maximum of 10 members shall be established. It shall be composed of [] <u>seven</u> members appointed by eu- LISA's Management Board from among its members <u>or their</u> <u>alternates</u> , the Chair of the EES Advisory Group referred to in Article 62, <u>a member representing eu-LISA</u> <u>appointed by its Executive Director</u> and one member appointed by the Commission. The members appointed by eu-LISA's Management Board shall be elected only from those Member States which are fully	 Provisionally agreed: 2. During the designing and development phase, a Programme Management Board composed of a maximum of 10 members shall be established. It shall be composed of <u>seven</u> members appointed by eu- LISA's Management Board from among its members <u>or their</u> <u>alternates</u>, the Chair of the EES Advisory Group referred to in Article 62, <u>a member representing eu-LISA</u> <u>appointed by its Executive Director</u> and one member appointed by the Commission. The members appointed by eu-LISA's Management Board shall be elected only from

all the large-scale IT systems managed by eu-LISA and which will participate in the EES. The Programme Management Board will meet once a month. It shall ensure the adequate management of the design and development phase of the EES and ensure the consistency between central and national EES projects. The Programme Management Board shall submit written reports every month to the Management Board on progress of the project. It shall have no decision- making power nor any mandate to represent the members of the Management Board. The Management Board shall establish the rules of procedure of the Programme Management Board which shall include in particular rules on:	all the large-scale IT systems managed by eu-LISA and which will participate in the EES. The Programme Management Board will meet once a month. It shall ensure the adequate management of the design and development phase of the EES and ensure the consistency between central and national EES projects. The Programme Management Board shall submit written reports every month to the Management Board on progress of the project. It shall have no decision- making power nor any mandate to represent the members of the Management Board. The Management Board shall establish the rules of procedure of the Programme Management Board which shall include in particular rules on:	legislative instruments governing the development, establishment operation and use of all the large- scale IT systems managed by eu- LISA and which will participate in the EES. The Programme Management Board will meet <u>regularly and at least three</u> <u>times per quarter</u> []. It shall ensure the adequate management of the design and development phase of the EES and ensure the consistency between central and national EES projects. The Programme Management Board shall submit written reports every month to the Management Board on progress of the project. It shall have no decision- making power nor any mandate to represent the members of the Management Board. The Management Board shall establish the rules of procedure of the Programme Management Board which shall include in particular rules	bound under Union law by the legislative instruments governing the development, establishment operation and use of all the large- scale IT systems managed by eu- LISA and which will participate in the EES. The Programme Management Board will meet <u>regularly and at least three</u> <u>times per quarter</u> . It shall ensure the adequate management of the design and development phase of the EES and ensure the consistency between central and national EES projects. The Programme Management Board shall submit written reports every month to the Management Board on progress of the project. It shall have no decision-making power nor any mandate to represent the members of the Management Board. The Management Board shall establish the rules of procedure of the Programme Management Board which shall include in particular
		which shall include in particular rules on:	which shall include in particular rules on:
(a) chairmanship;	(a) chairmanship;	(a) chairmanship;	
(b) meeting venues;	(b) meeting venues;	(b) meeting venues;	
(c) preparation of meetings;	(c) preparation of meetings;	(c) preparation of meetings;	
(d) admission of experts to the	(d) admission of experts to the	(d) admission of experts to the	
meetings;	meetings;	meetings;	
(e) communication plans	(e) communication plans	(e) communication plans	
ensuring full information to non-	ensuring full information to non-	ensuring full information to non-	

participating Members of the	participating Members of the	participating Members of the	
Management Board.	Management Board.	Management Board.	
The chairmanship shall be held by	The chairmanship shall be held by /	The chairmanship shall be held by	Provisionally agreed:
the Member State holding the	the Member State holding the	[] <u>a Member State which [] is</u>	The chairmanship shall be held by <u>a</u>
Presidency, provided it is fully bound	Presidency, provided it is fully bound	fully bound under Union law by the	Member State which is fully bound
under Union law by the legislative	under Union law by the legislative	legislative instruments governing the	under Union law by the legislative
instruments governing the	instruments governing the /	development, establishment	instruments governing the
development, establishment	development, establishment /	operation and use of all the large-	development, establishment
operation and use of all the large-	operation and use of all the large-	scale IT systems managed by eu-	operation and use of all the large-
scale IT systems managed by eu-	scale IT systems managed by eu-	LISA [].	scale IT systems managed by eu-
LISA or, if this requirement is not	LISA or, if this requirement is not	All travel and subsistence expenses	LISA.
met, by the Member State which	met, by the Member State/which	incurred by the members of the	All travel and subsistence expenses
shall next hold the Presidency and	shall next hold the Presidency and	Programme Management Board shall	incurred by the members of the
which meets that requirement.	which meets that requirement.	be paid by the Agency and Article 10	Programme Management Board shall
All travel and subsistence expenses	All travel and subsistence expenses	of the eu-LISA Rules of Procedure	be paid by the Agency and Article 10
incurred by the members of the	incurred by the members of the	shall apply mutatis mutandis. The	of the eu-LISA Rules of Procedure
Programme Management Board shall	Programme Management Board shall	Programme Management Board's	shall apply mutatis mutandis. The
be paid by the Agency and Article 10	be paid by the Agency and Article 10	secretariat shall be ensured by eu-	Programme Management Board's
of the eu-LISA Rules of Procedure	of the eu-LISA Rules of Procedure	LISA.	secretariat shall be ensured by eu-
shall apply mutatis mutandis. The	shall apply mutatis mutandis. The	During the designing and	LISA.
Programme Management Board's	Programme Management Board's	development phase, the EES	During the designing and
secretariat shall be ensured by eu-	secretariat shall be ensured by eu-	Advisory Group referred to in Article	development phase, the EES
LISA.	LISA. /	62 shall be composed of the national	Advisory Group referred to in Article
During the designing and	During the designing and	EES project managers and chaired by	62 shall be composed of the national
development phase, the EES	development phase, the EES	eu-LISA. It shall meet [] regularly	EES project managers and chaired by
Advisory Group referred to in Article	Advisory Group referred to in Article	and at least three times per quarter	eu-LISA. It shall meet regularly and
62 shall be composed of the national	62 shall be composed of the national	until the start of operations of the	at least three times per quarter until
EES project managers. It shall meet	EES project managers. It shall meet	EES. It shall report after each	the start of operations of the EES. It
at least once a month until the start of	at least once a month until the start of	meeting to the Programme	shall report after each meeting to the
operations of the EES. It shall report	operations of the EES. It shall report	Management Board. It shall provide	Programme Management Board. It
after each meeting to the Programme	after each meeting to the Programme	the technical expertise to support the	shall provide the technical expertise
Management Board. It shall provide	Management Board. It shall provide	tasks of the Programme Management	to support the tasks of the
the technical expertise to support the	/the technical expertise to support the	Board and shall follow-up on the	Programme Management Board and

tasks of the Programme Management	tasks of the Programme Management	state of preparation of the Member	shall follow-up on the state of
Board and shall follow-up on the	Board and shall follow-up on the	States.	preparation of the Member States.
state of preparation of the Member	state of preparation of the Member		
States.	States.		
3. eu-LISA shall be responsible	3. eu-LISA shall be responsible	3. eu-LISA shall be responsible	Provisionally agreed:
for the operational management of	for the operational management of	for the operational management of	3. eu-LISA shall be responsible
the Central System, the Secure	the Central System, the Secure	the Central System, the Secure	for the operational management of
Communication Channel between the	Communication Channel between the	Communication Channel between the	the Central System, the Secure
EES Central System and the VIS	EES Central System and the VIS	EES Central System and the VIS	Communication Channel between
Central System and the National	Central System and the National	Central System and the National	the EES Central System and the VIS
Uniform Interfaces. It shall ensure, in	Uniform Interfaces. It shall ensure, in	Uniform Interfaces. It shall ensure, in	Central System and the National
cooperation with the Member States,	cooperation with the Member States,	cooperation with the Member States,	Uniform Interfaces. It shall ensure, in
at all times the best available	<i>that</i> at all times the best available	at all times the best available	cooperation with the Member States,
technology, subject to a cost-benefit	technology, subject to a cost-benefit	technology, subject to a cost-benefit	that at all times the best available
analysis. eu-LISA shall also be	analysis, <i>is used for the Central</i>	analysis. eu-LISA shall also be	technology, subject to a cost-benefit
responsible for the operational	System, the Secure Communication	responsible for the operational	analysis, is used for the Central
management of the Communication	Channel between the EES Central	management of the Communication	System, the Secure
Infrastructure between the Central	System and the VIS Central System	Infrastructure between the Central	Communication Channel between
system and the National Uniform	and the National Uniform	system and the National Uniform	the EES Central System and the
Interfaces and for the web-service	Interfaces. eu-LISA shall also be	Interfaces and for the web-service	VIS Central System <i>and</i> , the
referred to in Article 12.	responsible for the operational	referred to in Article 12.	National Uniform Interfaces, <u>the</u>
Operational management of the EES	management of the secure and	Operational management of the EES	Communication Infrastructure
shall consist of all the tasks	encrypted Communication	shall consist of all the tasks necessary	between the Central system and the
necessary to keep the EES	Infrastructure between the Central	to keep the EES functioning 24 hours	National Uniform Interfaces, the web
functioning 24 hours a day, 7 days a	system and the National Uniform	a day, 7 days a week in accordance	service referred to in Article 12 and
week in accordance with this	Interfaces and for the web-service	with this Regulation, in particular the	the data repository referred to
Regulation, in particular the	referred to in Article 12.	maintenance work and technical	<u>Article 57(2)</u> . eu-LISA shall also be
maintenance work and technical	Operational management of the EES	developments necessary to ensure	responsible for the operational
developments necessary to ensure	shall consist of all the tasks	that the system functions at a	management of the Communication
that the system functions at a	necessary to keep the EES	satisfactory level of operational	Infrastructure between the Central
satisfactory level of operational	functioning 24 hours a day, 7 days a	quality, in particular as regards the	system and the National Uniform
quality, in particular as regards the	week in accordance with this	response time for interrogation of the	Interfaces and , for the web-service
response time for interrogation of the	Regulation, in particular the	central database by border crossing	referred to in Article 12 and the data

central database by border crossing points, in accordance with the technical specifications.	maintenance work and technical developments necessary to ensure that the system functions at a satisfactory level of operational quality, in particular as regards the response time for interrogation of the central database by border crossing points, in accordance with the technical specifications.	points, in accordance with the technical specifications.	<u>repository referred to Article 57(2)</u> . Operational management of the EES shall consist of all the tasks necessary to keep the EES functioning 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 system functions at a satisfactory level of operational quality, in particular as regards the response time for interrogation of the central database by border crossing points, in accordance with the technical specifications.
4. Without prejudice to	4. Without prejudice to	4. Without prejudice to Article	
Article 17 of the Staff Regulations of	Article 17 of the Staff Regulations of	17 of the Staff Regulations of	
Officials of the European Union, eu-	Officials of the European Union, eu-	Officials of the European Union, eu-	
LISA shall apply appropriate rules of	LISA shall apply appropriate rules of	LISA shall apply appropriate rules of	
professional secrecy or other	professional secrecy or other	professional secrecy or other	
equivalent duties of confidentiality to	equivalent duties of confidentiality to	equivalent duties of confidentiality to	
its entire staff required to work with	its entire staff required to work with	its entire staff required to work with	
EES data. This obligation shall also	EES data. This obligation shall also	EES data. This obligation shall also	
apply after such staff leave office or	apply after such staff leave office or	apply after such staff leave office or	
employment or after the termination	employment or after the termination	employment or after the termination	
of their activities.	of their activities.	of their activities.	

Article 35	Article 35	Article 35	Provisionally agreed:
Responsibilities of Member States	Responsibilities of Member States	Responsibilities of Member States	Article 35
		and Europol	Responsibilities of Member States
		<u></u>	and Europol
1. Each Member State shall be	1. Each Member State shall be	1. Each Member State shall be	
responsible for:	responsible for:	responsible for:	
(a) the integration of the existing	(a) the integration of the existing	(a) the integration of the existing	Provisionally agreed:
national border infrastructure and the	national border infrastructure and the	national [] infrastructure necessary	(a) the integration of the existing
connection to the National Uniform	connection to the National Uniform	for border check and the connection	national infrastructure necessary for
Interface;	Interface;	to the National Uniform Interface;	border check and the connection to
			the National Uniform Interface;
(b) the organisation,	(b) the organisation,	(b) the organisation,	
management, operation and	management, operation and	management, operation and	Linked with structure of article 5
maintenance of its existing national	maintenance of its existing national	maintenance of its existing national	
border infrastructure and of its	border infrastructure and of its	[] infrastructure <u>necessary for</u>	
connection to the EES for the	connection to the EES for the	border check and of its connection to	
purpose of Article 5 excepted points	purpose of Article 5 excepted points	the EES for the purpose of Article 5	
(j), (k) and (l);	(j), (k) and (l) with the exception of	excepted points (j), (k) and (l);	
	Article 5(1a);		
(c) the organisation of central	(c) the organisation of central	(c) the organisation of central	
access points and their connection to	access points and their connection to	access points and their connection to	
the National Uniform Interface for	the National Uniform Interface for	the National Uniform Interface for	
the purpose of law enforcement;	the purpose of law enforcement;	the purpose of law enforcement;	
(d) the management and	(d) the management and	(d) the management and	
arrangements for access of duly	arrangements for access of duly	arrangements for access of duly	
authorised staff of the competent	authorised staff of the competent	authorised staff of the competent	
national authorities to the EES in	national authorities to the EES in	national authorities to the EES in	
accordance with this Regulation and	accordance with this Regulation and	accordance with this Regulation and	
to establish and regularly update a	to establish and regularly update a	to establish and regularly update a	
list of such staff and their profiles.	list of such staff and their profiles.	list of such staff and their profiles.	
2. Each Member State shall	2. Each Member State shall	2. Each Member State shall	Provisionally agreed:

designate a national authority, which shall provide the competent authorities referred to in Article 8 with access to the EES. Each Member State shall connect that national authority to the National Uniform Interface. Each Member State and Europol shall connect their respective central access points referred to in Article 26 and 27 to the National Uniform Interface.	designate <i>a-an independent</i> national <i>supervisory</i> authority, which shall provide the competent authorities referred to in Article 8 with access to the EES. Each Member State shall connect that national authority to the National Uniform Interface. Each Member State and Europol shall connect their respective central access points referred to in Article 26 and 27 to the National Uniform Interface.	designate a national authority, which shall provide the competent authorities referred to in Article 8 with access to the EES. Each Member State shall connect that national authority to the National Uniform Interface. Each Member State [] shall connect their respective central access points referred to in Article 26 [] to the National Uniform Interface.	2. Each Member State shall designate a national authority, which shall provide the competent authorities referred to in Article 8 with access to the EES. Each Member State shall connect that national authority to the National Uniform Interface. Each Member State shall connect their respective central access points referred to in Article 26 to the National Uniform Interface.
 3. Each Member State shall use automated procedures for processing the data. 4. Before being authorised to process data stored in the EES, the staff of the authorities having a right to access the EES shall be given appropriate training about data security and data protection rules in particular and on relevant 	 Each Member State shall use automated procedures for processing the data. Before being authorised to process data stored in the EES, the staff of the authorities having a right to access the EES shall be given appropriate training about data security and data protection rules in particular and on relevant 	 3. Each Member State shall use automated procedures for processing the data. 4. Before being authorised to process data stored in the EES, the staff of the authorities having a right to access the EES shall be given appropriate training about data security and data protection rules in particular and on relevant 	
fundamental rights.	fundamental rights.4a.Member States shall not process the data collected in or retrieved from the EES for purposes other than those laid down in this Regulation.	fundamental rights. 5. Europol shall assume the responsibilities foreseen under	Provisionally agreed:4a.Member States shall notprocess the data collected in orretrieved in/from the EES forpurposes other than those laid downin this Regulation.Provisionally agreed:5.Europol shall assume the

	paragraphs 3 and 4. It shall connect	responsibilities foreseen under
		paragraphs 3, and 4 and 4a. It shall
		connect its central access point
	responsible for that connection.	referred to in Article 27 to the EES
		and shall be responsible for that
		connection.
		Provisionally agreed:
1 0 0	Responsibility for the use of data	Article 36
processing		Responsibility for the use of data
		processing
1. In relation to the processing of	1. In relation to the processing	Provisionally agreed:
1 '	1	1. In relation to the processing of
Member State shall designate the	Member State shall designate the	personal data in the EES, each
authority which is to be considered	authority which is to be considered as	Member State shall designate the
as controller in accordance with	controller in accordance with Article	authority which is to be considered
Article 2(d) 4(7) of Directive	2(d) of Directive 95/46/EC and	as controller in accordance with
95/46/EC Regulation (EU) 2016/679	which shall have central	Article 2(d) 4(7) of Directive
and which shall have central	responsibility for the processing of	95/46/EC Regulation (EU) 2016/679
responsibility for the processing of	data by this Member State. Each	and which shall have central
data by this Member State. Each	Member State shall communicate the	responsibility for the processing of
Member State shall communicate the	details of this authority to the	data by this Member State. Each
details of this authority to the	Commission.	Member State shall communicate the
Commission.	Each Member State shall ensure that	details of this authority to the
Each Member State shall ensure that	the data recorded in the EES is	Commission.
the data <i>collected and</i> recorded in the	processed lawfully, and in particular	Each Member State shall ensure that
EES is processed lawfully, and in	that only duly authorised staff have	the data <i>collected and</i> recorded in the
particular that only duly authorised	access to the data for the	EES is processed lawfully, and in
staff have access to the data for the	performance of their tasks. The	particular that only duly authorised
performance of their tasks. The	Member State responsible shall	staff have access to the data for the
1	ensure in particular that:	performance of their tasks. The
-	*	Member State responsible shall
L		ensure in particular that:
	personal data in the EES, each Member State shall designate the authority which is to be considered as controller in accordance with Article 2(d) 4(7) of Directive 95/46/EC Regulation (EU) 2016/679 and which shall have central responsibility for the processing of data by this Member State. Each Member State shall communicate the details of this authority to the Commission. Each Member State shall ensure that the data collected and recorded in the EES is processed lawfully, and in particular that only duly authorised staff have access to the data for the	Responsibility for the use of data processingResponsibility for the use of data1. In relation to the processing of personal data in the EES, each Member State shall designate the authority which is to be considered as controller in accordance with Article 2(d) 4(7) of Directive 95/46/EC Regulation (EU) 2016/679 and which shall have central responsibility for the processing of data by this Member State. Each Member State shall communicate the details of this authority to the Commission. Each Member State shall ensure that the data collected and recorded in the EES is processed lawfully, and in particular that only duly authorised staff have access to the data for the performance of their tasks. The Member State responsible shall1. In relation to the processing of personal data in the EES, each Member State shall designate the authority which is to be considered as controller in accordance with Article 2(d) of Directive 95/46/EC and which shall have central responsibility for the processing of data by this Member State. Each Member State shall communicate the details of this authority to the Commission. Each Member State shall ensure that the data collected and recorded in the EES is processed lawfully, and in particular that only duly authorised staff have access to the data for the performance of their tasks. The Member State responsible shallResponsibility for the use of dataNember State responsible shall1. In relation to the processing of personal data in the EES, each Member State shall communicate the details of this authority to the Commission. Each Member State shall ensure that the data for the performance of their tasks. The Member State responsible shall ensure in particular that:

(a) the data are collected lawfully	(a) the data are collected lawfully	(a) the data are collected lawfully	
and in full respect of the human	and in full respect of the human	and in full respect of the human	
dignity of the third country national;	dignity of the third country national;	dignity of the third country national;	
(b) the data are registered	(b) the data are registered	(b) the data are registered	
lawfully into the EES;	lawfully into the EES;	lawfully into the EES;	
(c) the data are accurate and up-	(c) the data are accurate and up-	(c) the data are accurate and up-	
to-date when they are transmitted to	to-date when they are transmitted to	to-date when they are transmitted to	
the EES.	the EES.	the EES.	
2. eu-LISA shall ensure that the	2. eu-LISA shall ensure that the	2. eu-LISA shall ensure that the	
EES is operated in accordance with	EES is operated in accordance with	EES is operated in accordance with	
this Regulation and the implementing	this Regulation and the implementing	this Regulation and the implementing	
acts referred to in Article 33. In	acts referred to in Article 33. In	acts referred to in Article 33. In	
particular, eu-LISA shall:	particular, eu-LISA shall:	particular, eu-LISA shall:	
(a) take the necessary measures	(a) take the necessary measures	(a) take the necessary measures	Provisionally agreed:
to ensure the security of the Central	to ensure the security of the Central	to ensure the security of the Central	(a) take the necessary measures
System and the Communication	System and the <i>secure and encrypted</i>	System and the Communication	to ensure the security of the Central
Infrastructure between the Central	Communication Infrastructure	Infrastructure between the Central	System and the Communication
System and the National Uniform	between the Central System and the	System and the National Uniform	Infrastructure between the Central
Interface, without prejudice to the	National Uniform Interface, without	Interface, without prejudice to the	System and the National Uniform
responsibilities of each Member	prejudice to the responsibilities of	responsibilities of each Member	Interface, without prejudice to the
State;	each Member State;	State;	responsibilities of each Member
			State;
(b) ensure that only duly	(b) ensure that only duly	(b) ensure that only duly	
authorised staff has access to data	authorised staff has access to data	authorised staff has access to data	
processed in the EES.	processed in the EES.	processed in the EES.	
3. eu-LISA shall inform the	3. eu-LISA shall inform the	3. eu-LISA shall inform the	
European Parliament, the Council	European Parliament, the Council	European Parliament, the Council	
and the Commission as well as the	and the Commission as well as the	and the Commission as well as the	
European Data Protection Supervisor	European Data Protection Supervisor	European Data Protection Supervisor	
of the measures it takes pursuant to	of the measures it takes pursuant to	of the measures it takes pursuant to	
paragraph 2 for the start of	paragraph 2 for the start of	paragraph 2 for the start of operations	
1 0 T			1

operations of the EES.	operations of the EES.	of the EES.	
Article 37	Article 37	Article 37	
Keeping of data in national files and	Keeping of data in national files and	Keeping of data in national files and	
National Entry Exit systems	National Entry Exit systems	National Entry Exit systems	
1. A Member State may keep	1. Data retrieved from the EES	1. A Member State may keep	Provisionally agreed:
the alphanumeric data which that	may be kept in national files only	the alphanumeric data which that	1. A Member State may keep
Member State entered into the EES,	where necessary in an individual	Member State entered into the EES,	the alphanumeric data which that
in accordance with the purposes of	case, in accordance with the	in accordance with the purposes of	Member State entered into the EES,
the EES in its national files and	purpose of the EES and relevant	the EES in its national files or	in accordance with the purposes of
national entry exit system in full	Union law, in particular on data	national entry <u>and</u> exit system in full	the EES in its national files or
respect of Union Law.	protection, and for no longer than	respect of Union Law.	national entry / <u>and</u> exit system <i>or</i>
	necessary in that individual case. A		equivalent national files in full
	Member State may keep the		respect of Union Law.
	alphanumeric data which that		
	Member State entered into the EES,		
	in accordance with the purposes of		
	the EES in its national files and		
	national entry exit system in full		
	respect of Union Law.		
2. The data shall not be kept in	2. The data shall not be kept in	2. The data shall not be kept in	Provisionally agreed:
the national files or national	the national files or national	[] national files or national	2. The data shall not be kept in
entry/exit systems longer than it is	entry/exit systems <i>for</i> longer than	entry/exit systems longer than it is	the national files or national
kept in the EES.	strictly necessary for their	kept in the EES.	entry/exit systems <i>or equivalent</i>
kept in the EES.	2 20	kept in the EES.	national files for longer than strictly
	individual purposes and, in any		
	event, for longer than they are kept		necessary and, in any event, for
	in the EES.		<i>longer than they are</i> kept in the
3. Any use of data which does	2 Any use of data which do	2 Any was of data which does	EES.
5	3. Any use of data which does	3. Any use of data which does	
not comply with paragraph 1 shall be considered a misuse under the	not comply with paragraph I shall be	not comply with paragraph 1 shall be considered a misuse under the	
	considered a misuse under the		
national law of each Member State as	national law of each Member State as	national law of each Member State as	
well as Union law.	well as Union law.	well as Union law.	

 4. This Article shall not be construed as requiring any technical adaptation of the EES. Member States may keep data in accordance with this Article at their own cost, risk and with their own technical means. Article 38 Communication of data to third countries, international organisations and private parties Data stored in the EES shall not be transferred or made available to a third country, to an international organisation or any private party. By way of derogation from paragraph 1, the data referred to in Article 15(1) may be transferred or made available to a third country or to an international organisation listed in the Annex in individual cases, if necessary in order to prove the identity of third country nationals for the purpose of return, only where the following conditions are satisfied: 	in the Annex in individual cases, if necessary in order to prove the identity of third country nationals for	 4. This Article shall not be construed as requiring any technical adaptation of the EES. Member States may keep data in accordance with this Article at their own cost, risk and with their own technical means. Article 38 Communication of data to third countries, international organisations and private parties 1. Data stored in the EES shall not be transferred or made available to a third country, to an international organisation or any private party. 2. By way of derogation from paragraph 1, the data referred to in Article 14(1)(a), (b), [] (c) and (f) and Article 15(1)(a), (b), and (c) may be transferred or made available by border check authorities to a third country or to an international organisation listed in the Annex I in individual cases, if necessary in order to prove the identity of third country nationals for the purpose of return, only where the following conditions are satisfied: 	 Provisionally agreed: 2. By way of derogation from paragraph 1, the data referred to in Article 14(1)(a), (b), (c) and (f) and Article 15(1)(a), (b), and (c) may be transferred or made available by border check-authorities or immigration authorities to a third country or to an international organisation listed in the Annex I in individual cases, if necessary in order to prove the identity of third country nationals for the sole purpose of return, only where the following conditions are satisfied:
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(a) the Commission has adopted a decision on the adequate protection of personal data in that third country in accordance with Article 25(6) of Directive 95/46/EC, or a readmission agreement is in force between the Community and that third country, or Article 26(1)(d) of Directive 95/46/EC applies;	(a) the Commission has adopted a decision on the adequate protection of personal data in that third country in accordance with Article 25(6) 45(3) of Directive 95/46/EC <i>Regulation (EU) 2016/679</i> , or a readmission agreement is in force between the Community Union and that third country, or Article 26(1)(d) of Directive 95/46/EC applies;	(a) the Commission has adopted a decision on the adequate protection of personal data in that third country in accordance with Article 25(6) of Directive 95/46/EC, or a readmission agreement <u>or any other type of similar arrangement</u> is in force between [] <u>the European Union or a Member State</u> and that third country, or Article 26(1)(d) of Directive 95/46/EC applies;	 Provisionally agreed: a) the Commission has adopted a decision on the adequate protection of personal data in that third country in accordance with Article 25(6) of Directive 95/46/EC 25(6) 45(3) of Regulation (EU) 2016/679; or b) appropriate safeguards as referred to in Article 46 of Regulation (EU) 2016/679 are provided for, in particular, such as through in a readmission agreement or any other type of similar arrangement which is in force between the European Union or a Member State and that third country; or (c) Article <u>49(1)(d) of Regulation</u> (EU) 2016/679, 26(1)(d) of Directive 95/46/EC applies; or (subject to recital 32 as re public interest ground)
(b) the third country or international organisation agrees to use the data only for the purpose for which they were provided;	(b) the third country or international organisation <i>explicitly</i> agrees to use the data <i>and is able to</i> <i>guarantee that the data are used</i> only for the purpose for which they were provided;	(b) <u>the Member State shall</u> <u>inform the third country or</u> <u>international organisation of the</u> <u>obligation to use the data only for</u> <u>purposes for which they were</u> <u>provided; []</u>	[]
(c) the data are transferred or made available in accordance with the relevant provisions of Union law, in particular readmission agreements,	(c) the data are transferred or made available in accordance with the relevant provisions of Union law, in particular <i>data protection and</i>	(c) the data are transferred or made available in accordance with the relevant provisions of Union law, in particular readmission agreements	[]

 and the national law of the Member State which transferred or made the data available, including the legal provisions relevant to data security and data protection; (d) the Member State which entered the data in the EES has given its consent. 	readmission agreements, and the national law of the Member State which transferred or made the data available, including the legal provisions relevant to data security and data protection; (d) the Member State which entered the data in the EES has given its consent and the individual concerned has been informed that his or her personal information may be shared with the authorities of a third country; and	 and <u>transfer of personal data, and</u> the national law of the Member State which transferred or made the data available, including the legal provisions relevant to data security and data protection; (d) [] 	Provisionally agreed: In all cases, - the data are shall be transferred or made available-in accordance with the relevant provisions of Union law, in particular data protection, including Chapter V of Regulation 2016/679 on transfers of personal data to third countries or international organisations, and readmission agreements, and the national law of the Member State which transferred or made-the data-available, including the legal provisions relevant to data security and data protection - the third country or international organisation agrees to-process the data only for purposes for which they were provided,
	(da) a final decision ordering the return of the third-country national has been issued by the appropriate competent authority of the Member State in which the third-country national has been staying.		Compromise proposal: - <u>a return decision adopted pursuant to</u> Directive 2008/115(EC) has been issued in relation to the individual concerned, provided its enforcement is not suspended:
3. Transfers of personal data to third countries or international	3. Transfers of personal data to third countries or international	3. Transfers of personal data to third countries or international	

organisations pursuant to paragraph 2shall not prejudice the rights ofapplicants for and beneficiaries ofinternational protection, in particularas regards non-refoulement.4.4.Personal data obtained fromthe Central System by a MemberState or by Europol for lawenforcement purposes shall not betransferred or made available to anythird country, internationalorganisation or private entityestablished in or outside the Union.The prohibition shall also apply ifthose data are further processed atnational level or between MemberStates within the meaning of Article2(b) of Framework Decision2008/977/JHA.	organisations pursuant to paragraph 2 shall not prejudice the rights of applicants for and beneficiaries of international protection, in particular as regards non-refoulement. 4. Personal data obtained from the Central System by a Member State or by Europol for law enforcement purposes shall not be transferred or made available to any third country, international organisation or private entity established in or outside the Union. The prohibition shall also apply if those data are further processed at national level or between Member States within the meaning of Article 2(b) of Framework Decision 2008/977/JHA pursuant to Directive	organisations pursuant to paragraph 2 shall not prejudice the rights of applicants for and beneficiaries of international protection, in particular as regards non-refoulement. 4. Personal data obtained from the Central System by a Member State or by Europol for law enforcement purposes shall not be transferred or made available to any third country, international organisation or private entity established in or outside the Union. The prohibition shall also apply if those data are further processed at national level or between Member States within the meaning of Article 2(b) of Framework Decision 2008/977/JHA.	Provisionally agreed:4.Personal data obtained from the Central System by a Member State or by Europol for law enforcement purposes shall not be transferred or made available to any third country, international organisation or private entity established in or outside the Union. The prohibition shall also apply if those data are further processed at national level or between Member States within the meaning of Article 2(b) of Framework Decision 2008/977/JHA pursuant to Directive (EU) 2016/680.
	(EU) 2016/680.	<u>4a.</u> By way of derogation from paragraph 4, the data of third country nationals subject to a visa requirement referred to in Article 14(1)(a), (b) and (c) 14 (2) (a) and (b), 14 (3) (a) and (b) and the data of third country nationals exempt from visa obligation referred to under Articles 15(1) (a) 14(2) (a) and (b), 14(3) (a) and (b) may be transferred or made available by the designated authority to a third country upon a duly motivated request, only if the	Presidency suggestion: 4a. By way of derogation from paragraph 4, the data-of third country nationals subject to a visa requirement referred to in Article 14(1)(a), (b) and (c) 14 (2) (a) and (b), 14 (3) (a) and (b) and the data of third country nationals exempt from visa obligation referred to under Articles 15(1) (a) 14(2) (a) and (b), 14(3) (a) and (b)-may be transferred or made available by the designated authority to a third country in

following cumulative conditions are met:	individual cases, upon a duly motivated request, only if the following cumulative conditions are met:
(a) in an exceptional case of urgency, where there is an immediat and serious threat of a terrorist offence or other serious criminal offences as defined respectively under Article 3(1)(26) and (27) of this Regulation,	 Compromise proposal (changes from last agreed text marked in bold): (a) there is an exceptional case of urgency, where there is (i) an immediate and imminent danger associated with serious threat of a terrorist offence as defined under Article 3(1)(26) of this Regulation or (ii) an imminent danger for the physical integrity or the life of a person and this danger is associated with another other serious criminal offence as defined respectively-under Article 3(1)(26) and (27) of this Regulation. (a) -the transfer of data is necessary for the prevention, detection or investigation in the third country concerned of such offence or offences:

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	(b) the transfer is carried out in accordance with the applicable conditions set under Framework Decision 2008/977/JHA.	has access to such data inaccordance with the procedure andthe conditions set out in Articles 28and 29 are fulfilled.Presidency suggestion:(b) the transfer is carried out inaccordance with the applicableconditions set under FrameworkDecision 2008/977/JHA out inDirective (EU) 2016/680, inparticular Chapter V thereof ontransfers of personal data to thirdcountries or internationalorganisations
	(c) the reciprocal provision of any information on entry/exit records held by the requesting third country to the Member States operating the EES is ensured.	Presidency suggestion:(c) a duly motivated written or electronic request from the third country is submitted and(d) the reciprocal provision of any information on entry/exit records held by the requesting third country to the Member States operating the EES is ensured.
	Where a transfer is based on this paragraph, such a transfer shall be documented and the documentation shall be made available to the supervisory authority on request, including the date and time of the transfer, information about the	<i>Compromise proposal:</i> Where a transfer is based on this paragraph, such a transfer shall be documented and the documentation shall be made available to the supervisory authority <u>established in</u> accordance with Article 41(1) of

	Directive (EII) 2016/690
receiving competent authority, the	Directive (EU) 2016/680 on request.
justification for the transfer and the	including the date and time of the
personal data transferred.	transfer, information about the
	receiving competent authority, the
	justification for the transfer and the
	personal data transferred.
<u>Article 38a</u>	Provisionally agreed
Conditions for communication of	<u>Article 38a</u>
data to designated authorities of a	Conditions for communication of
Member State which does not yet	data to designated authorities of a
operate the EES and to designated	Member State which does not yet
authorities of a Member State in	operate the EES and to designated
respect of which this Regulation does	authorities of a Member State in
not apply	respect of which this Regulation does
	not apply
1. Article 38(4) and (4a) shall	Provisionally agreed
apply <i>mutatis mutandis</i> to the	1. Article $38(4)$ and $(4a)$ shall
communication of data to the	apply <i>mutatis mutandis</i> to the
designated authorities of a Member	communication of data to the
State which does not yet operate the	designated authorities of a Member
EES and to the designated authorities	State which does not yet operate the
of a Member State to which this	EES and to the designated authorities
Regulation does not apply, upon a	of a Member State to which this
duly motivated written or electronic	Regulation does not apply, upon a
request, provided that the reciprocal	duly motivated written or electronic
provision of any information on	request and provided that
entry/exit records held by the	Directive(EU) 2016/680 applies to
requesting Member State to the	that Member State and provided that
Member States operating the EES is	the reciprocal provision of any
ensured.	information on entry/exit records
	held by the requesting Member State
	to the Member States operating the
	EES is ensured.

		2. In cases where information is provided pursuant to this Article, the same conditions as referred to in Article 39(1), Article 40(1) and (3), Article 43 and 52(4) shall apply mutatis mutandis.	 Provisionally agreed 2. In cases where information is provided pursuant to this Article, the same conditions as referred to in Article 39(1), Article 40(1) and (3), Article 43 and 52(4) shall apply mutatis mutandis.
Article 39	Article 39	Article 39	
Data security	Data security	Data security	
1. The Member State responsible shall ensure the security	1. The Member State responsible shall ensure the security	1. The Member State responsible shall ensure the security	
of the data before and during the	of the data before and during the	of the data before and during the	
transmission to the National Uniform	transmission to the National Uniform	transmission to the National Uniform	
Interface. Each Member State shall	Interface. Each Member State shall	Interface. Each Member State shall	
ensure the security of the data it	ensure the security of the data it	ensure the security of the data it	
receives from the EES.	receives from the EES.	receives from the EES.	
2. Each Member State shall, in	2. Each Member State shall, in	2. Each Member State shall, in	Provisionally agreed:
relation to its national border	relation to its national border	relation to its national []	2. Each Member State shall, in
infrastructure, adopt the necessary	infrastructure, adopt the pecessary	infrastructure necessary for border	relation to its national infrastructure
measures, including a security plan	measures, including a security plan	check, adopt the necessary measures,	necessary for border check, adopt the
and a business continuity and disaster	and a business continuity and disaster	including a security plan and a	necessary measures, including a
recovery plan, in order to:	recovery plan, in order to:	business continuity and disaster	security plan and a business
		recovery plan, in order to:	continuity and disaster recovery plan,
			in order to:
(a) physically protect data,	(a) physically protect data,	(a) physically protect data,	
including by making contingency	including by making contingency	including by making contingency	
plans for the protection of critical	plans for the protection of critical	plans for the protection of critical	
infrastructure;	infrastructure;	infrastructure;	
(b) deny unauthorised persons	(b) deny unauthorised persons	(b) deny unauthorised persons	Provisionally agreed:
access to national installations in	access to data-processing equipment	access to national installations in	(b) deny unauthorised persons
which the Member State carries out	and national installations in which	which the Member State carries out	access to data-processing equipment
operations in accordance with the	the Member State carries out	operations in accordance with the	and national installations in which

purposes of the EES;	operations in accordance with the purposes of the EES;	purposes of the EES;	the Member State carries out operations in accordance with the purposes of the EES;
(c) prevent the unauthorised	(c) prevent the unauthorised	(c) prevent the unauthorised	
reading, copying, modification or	reading, copying, modification or	reading, copying, modification or	
removal of data media;	removal of data media;	removal of data media;	
(d) prevent the unauthorised	(d) prevent the unauthorised	(d) prevent the unauthorised	
input of data and the unauthorised	input of data and the unauthorised	input of data and the unauthorised	
inspection, modification or deletion	inspection, modification or deletion	inspection, modification or deletion	
of stored personal data;	of stored personal data;	of stored personal data;	
	(da) prevent the use of automated data-processing systems by unauthorised persons using data communication equipment;		Provisionally agreed: (da) prevent the use of automated data-processing systems by unauthorised persons using data communication equipment;
(e) prevent the unauthorised	(e) prevent the unauthorised	(e) prevent the unauthorised	
processing of data in the EES and	processing of data in the EES and	processing of data in the EES and	
any unauthorised modification or	any unauthorised modification or	any unauthorised modification or	
deletion of data processed in the	deletion of data processed in the	deletion of data processed in the	
EES;	EES;	EES;	
(f) ensure that persons authorised to access the EES 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 persons authorised to access the EES have access only to the data covered by their access authorisation, by means of individual <i>and unique</i> user identities and confidential access modes only;	(f) ensure that persons authorised to access the EES have access only to the data covered by their access authorisation, by means of individual user identities and confidential access modes only;	Provisionally agreed: (f) ensure that persons authorised to access the EES have access only to the data covered by their access authorisation, by means of individual <i>and unique</i> user identities and confidential access modes only;
(g) ensure that all authorities	(g) ensure that all authorities	(g) ensure that all authorities with	Provisionally agreed:
with a right of access to the EES	with a right of access to the EES	a right of access to the EES create	(g) ensure that all authorities with a
create profiles describing the	create profiles describing the	profiles describing the functions and	right of access to the EES create
functions and responsibilities of	functions and responsibilities of	responsibilities of persons who are	profiles describing the functions and
persons who are authorised to enter,	persons who are authorised to enter,	authorised to enter, amend, delete,	responsibilities of persons who are

1 1 1 4 1 1 1 1		1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1	, <u>1 1 1 , </u> , <u>1 1 1 .</u>]
amend, delete, consult and search the	amend, delete, consult and search the	consult and search the data and make	authorised to enter, amend, delete,
data and make their profiles available	data and make their profiles available	their profiles available to the []	consult and search the data and make
to the national supervisory	to the national supervisory	supervisory authorities referred to in	their profiles available to the $[\dots]$
authorities referred to in Article 49	authorities referred to in Article 49	Article 49 and to the national	supervisory authorities.
and to the national supervisory	and to the national supervisory	supervisory authorities referred to in	
authorities referred to in Article	authorities referred to in Article	Article 52(2) without delay at their	
52(2) without delay at their request;	52(2) without delay at their request;	request;	
(h) ensure that it is possible to	(h) ensure that it is possible to	(h) ensure that it is possible to	
verify and establish to which bodies	verify and establish to which bodies	verify and establish to which bodies	
personal data may be transmitted	personal data may be transmitted	personal data may be transmitted	
using data communication	using data communication	using data communication	
equipment;	equipment;	equipment;	
(i) ensure that it is possible to	(i) ensure that it is possible to	(i) ensure that it is possible to	
verify and establish what data has	verify and establish what data has	verify and establish what data has	
been processed in the EES, when, by	been processed in the EES, when, by	been processed in the EES, when, by	
whom and for what purpose;	whom and for what purpose;	whom and for what purpose;	
(j) prevent the unauthorised	(j) prevent the unauthorised	(j) prevent the unauthorised	
reading, copying, modification or	reading, copying, modification or	reading, copying, modification or	
deletion of personal data during the	deletion of personal data during the	deletion of personal data during the	
transmission of personal data to or	transmission of personal data to or	transmission of personal data to or	
from the EES or during the transport	from the EES or during the transport	from the EES or during the transport	
of data media, in particular by means	of data media, in particular by means	of data media, in particular by means	
of appropriate encryption techniques;	of appropriate encryption techniques;	of appropriate encryption techniques;	
or appropriate energy from teeningues,		or appropriate energy from teeninques,	Presidency proposes to accept this
	(ja) ensure that, in the event of an		Presidency proposes to accept this
	interruption, installed systems can		addition:
	be restored to normal operation;		(ja) ensure that, in the event of
			an interruption, installed systems
			can be restored to normal
			operation;
	(jb) ensure reliability by making		
	sure that any faults in the		Compromise proposal:
	functioning of the EES are properly		(jb) ensure reliability by making
	reported and that necessary		sure that any faults in the

	technical measures are put in place to ensure that personal data can be restored in the event of corruption due to a malfunctioning of the system;		functioning of the EES are properly reported and that necessary technical measures are put in place to ensure that personal data can be restored in the event of corruption due to a malfunctioning of the system; (Last part moved to para 3)
(k) 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.	 (k) 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. 2a. Member States shall inform eu- LISA of security incidents detected on their systems without prejudice to the notification and communication of a personal data breach pursuant to Article 33 of Regulation (EU) No 2016/679. eu-LISA shall inform the Member States in the event of a security incident on the EES Central System. Where a security incident leads to a personal data breach, the European Data Protection Supervisor shall also be informed. The Member States concerned, and eu-LISA shall 	(k) 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.	Provisionally agreed: deleted and a new article dedicated to the security incidents added
	collaborate in the event of a security incident.		

3. As regards the operation of the EES, eu-LISA shall take the necessary measures in order to achieve the objectives set out in paragraph 2 including the adoption of a security plan and a business continuity and disaster recovery plan.	3. As regards the operation of the EES, eu-LISA shall take the necessary measures in order to achieve the objectives set out in paragraph 2 including the adoption of a security plan and a business continuity and disaster recovery plan.	3. As regards the operation of the EES, eu-LISA shall take the necessary measures in order to achieve the objectives set out in paragraph 2 including the adoption of a security plan and a business continuity and disaster recovery plan.	 Compromise proposal: 3. As regards the operation of the EES, eu-LISA shall take the necessary measures in order to achieve the objectives set out in paragraph 2 including the adoption of a security plan and a business continuity and disaster recovery plan. Eu-LISA shall also ensure reliability by making sure that necessary technical measures are put in place to ensure that personal data can be restored in the event of corruption due to a malfunctioning of the EES.
	3a. eu-LISA and the Member States shall cooperate in order to ensure a harmonised data security approach based on a security risk management process encompassing the entire EES as referred to in Article 6.		Provisionally agreed: 3a. eu-LISA and the Member States shall cooperate in order to ensure a harmonised data security approach based on a security risk management process encompassing the entire EES as referred to in <u>Article 6.</u> Provisionally agreed: <u>Article 39a</u>
			Security incidents Provisionally agreed: 1. Any event that has or may have an impact on the security of the EES and may cause damage or loss

	to EES data shall be considered to be
	a security incident, especially 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 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) No
	2016/679 and/ or to Article 30 of
	Directive (EU) No 2016/680,
	Member States shall notify the
	Commission, eu-LISA and the
	European Data Protection Supervisor
	of security incidents. In the event of
	a security incident on the EES
	Central System, 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 EES or on the availability,
	integrity and confidentiality of the
	data, shall be provided to the
	Member States and reported in

			 compliance with the incident management plan to be provided by eu-LISA. 5. The Member States concerned and eu-LISA shall collaborate in the event of a security incident.
Article 40	Article 40	Article 40	
Liability	Liability	Liability	
1. Any person or Member State	1. Any person or Member State	1. Any person or Member State	Provisionally agreed:
that has suffered damage as a result	that has suffered <i>material or</i>	that has suffered damage as a result	1. Any person or Member State
of an unlawful processing operation	<i>immaterial</i> damage as a result of an	of an unlawful processing operation	that has suffered <i>material or</i>
or any act incompatible with this	unlawful processing operation or any	or any act incompatible with this	<i>immaterial</i> damage as a result of an
Regulation shall be entitled to	act incompatible with this Regulation	Regulation shall be entitled to	unlawful processing operation or any
receive compensation from the	shall be entitled to receive	receive compensation from the	act incompatible with this Regulation
Member State which is responsible	compensation from the Member	Member State which is responsible	shall be entitled to receive
for the damage suffered. That	State which is responsible for the	for the damage suffered. That	compensation from the Member
Member State shall be exempted	damage suffered. That Member State	Member State shall be exempted	State which is responsible for the
from its liability, in whole or in part,	shall be exempted from its liability,	from its liability, in whole or in part,	damage suffered. That Member State
if it proves that it is not responsible	in whole or in part, if it proves that it	if it proves that it is not responsible	shall be exempted from its liability,
for the event which gave rise to the	is not <i>in any way</i> responsible for the	for the event which gave rise to the	in whole or in part, if it proves that it
damage.	event which gave rise to the damage.	damage.	is not <i>in any way</i> responsible for the
			event which gave rise to the damage.
2. If any failure of a Member	2. If any failure of a Member	2. If any failure of a Member	
State to comply with its obligations	State to comply with its obligations	State to comply with its obligations	
under this Regulation causes damage	under this Regulation causes damage	under this Regulation causes damage	
to the EES, that Member State shall	to the EES, that Member State shall	to the EES, that Member State shall	
be held liable for such damage,	be held liable for such damage,	be held liable for such damage,	
unless and insofar as eu-LISA or	unless and insofar as eu-LISA or	unless and insofar as eu-LISA or	
another Member State participating	another Member State participating	another Member State participating	
in the EES failed to take reasonable	in the EES failed to take reasonable	in the EES failed to take reasonable	

measures to prevent the damage from	measures to prevent the damage from	measures to prevent the damage from	
occurring or to minimise its impact.	occurring or to minimise its impact.	occurring or to minimise its impact.	
3. Claims for compensation	3. Claims for compensation	3. Claims for compensation	
against a Member State for the	against a Member State for the	against a Member State for the	
damage referred to in paragraphs 1	damage referred to in paragraphs 1	damage referred to in paragraphs 1	
and 2 shall be governed by the	and 2 shall be governed by the	and 2 shall be governed by the	
provisions of national law of the	provisions of national law of the	provisions of national law of the	
defendant Member State.	defendant Member State.	defendant Member State.	
Article 41	Article 41	Article 41	Provisionally agreed:
Keeping of records	Keeping of records	Keeping of records <u>by eu-LISA and</u>	Article 41
		<u>Member States</u>	Keeping of logs by eu-LISA and
			Member States
1. eu-LISA shall keep records of	1. eu-LISA shall keep records of	1. eu-LISA shall keep records of	Provisionally agreed:
all data processing operations within	all data processing operations within	all data processing operations within	1. eu-LISA shall keep <i>logs</i>
the EES. Those records shall show	the EES. Those records shall show	the EES. Those records shall show	records of all data processing
the purpose of access referred to in	the purpose of access referred to in	the purpose of access referred to in	operations within the EES. Those
Article 8, the date and time, the data	Article 8, the date and time, the data	Article 8, the date and time, the data	logs records shall show the purpose
transmitted as referred to in Article	transmitted as referred to in Article	transmitted as referred to in Article	of access referred to in Article 8, the
14 to 17, the data used for	14 to 17, the data used for	14 to 17, the data used for	date and time, the data transmitted as
interrogation as referred to in	interrogation as referred to in	interrogation as referred to in	referred to in Article 14 to 17, the
Articles 21 to 25 and the name of the	Articles 21 to 25 and the name of the	Articles 21 to 25 and the name of the	data used for interrogation as referred
authority entering or retrieving the	authority entering or retrieving the	authority entering or retrieving the	to in Articles 21 to 25 and the name
data. In addition, each Member State	data. In addition, each Member State	data. []	of the authority entering or retrieving
shall keep records of the staff duly	shall keep records of the staff duly		the data. []
authorised to enter or retrieve the	authorised to enter or retrieve the		
data.	data.		
2. For the consultations listed in	2. For the consultations listed in	2. For the consultations listed in	
Article 7, a record of each data	Article 7, a record of each data	Article 7, a record of each data	
processing operation carried out	processing operation earried out	processing operation carried out	
within the EES and the VIS shall be	within the EES and the VIS shall be	within the EES and the VIS shall be	
kept in accordance with this Article	kept in accordance with this Article	kept in accordance with this Article	
and Article 34 of Regulation (EC)	and Article 34 of Regulation (EC)	and Article 34 of Regulation (EC)	

767/2008. eu-LISA shall ensure in	767/2008. eu-LISA shall ensure in	767/2008. eu-LISA shall ensure in	
particular that the relevant records of	particular that the relevant records of	particular that the relevant records of	
the concerned data processing	the concerned data processing	the concerned data processing	
operations are kept when the	operations are kept when the	operations are kept when the	
competent authorities launch a data	competent authorities launch a data	competent authorities launch a data	
processing operation directly from	processing operation directly from	processing operation directly from	
one system to the other.	one system to the other.	one system to the other.	
one system to the other.	one system to the other.	2a. In addition to paragraphs 1	Provisionally agreed:
		and 2, each Member State shall keep	2a. In addition to paragraphs 1
		records of the staff duly authorised to	and 2, each Member State shall keep
		enter or retrieve the data.	records <i>logs</i> of the staff duly
		enter of retrieve the data.	authorised to <i>process</i> enter or
			retrieve the data.
3. Such records may be used	3. Such records may be used	3. Such records may be used	Provisionally agreed:
only for the data protection	only for the data protection	only for the data protection	3. Such records may be used
•	• •	• •	5
monitoring of the admissibility of	monitoring of the admissibility of	monitoring of the admissibility of	only for the data protection
data processing as well as to ensure data security. Those records shall be	data processing as well as to ensure	data processing as well as to ensure data security. Those records shall be	monitoring of the admissibility of
	data security <i>pursuant to Article 39</i> .	5	data processing as well as to ensure
protected by appropriate measures	Those records shall be protected by	protected by appropriate measures	data security <i>pursuant to Article 39</i> .
against unauthorised access and	appropriate measures against	against unauthorised access and	Those records shall be protected by
deleted one year after the retention	unauthorised access and deleted one	deleted one year after the retention	appropriate measures against
period referred to in Article 31 has	year after the retention period	period referred to in Article 31 has	unauthorised access and deleted one
expired, if they are not required for	referred to in Article 31 has expired,	expired, if they are not required for	year after the retention period
monitoring procedures which have	if-unless they are not-required for	monitoring procedures which have	referred to in Article 31 has expired,
already begun.	monitoring procedures which have	already begun.	if-unless they are not-required for
	already begun.		monitoring procedures which have
			already begun.
Article 42	Article 42	Article 42	
Self-monitoring	Self-monitoring	Self-monitoring	
Member States shall ensure that each	Member States shall ensure that each	Member States shall ensure that each	
authority entitled to access EES data	authority entitled to access EES data	authority entitled to access EES data	Presidency proposes to accept to
takes the measures necessary to	takes the measures necessary to	takes the measures necessary to	delete the last paragraph since this is
comply with this Regulation and	comply with this Regulation and	comply with this Regulation and	unnecessary here and this

cooperates, where necessary, with the supervisory authority.	cooperates, where necessary, with the supervisory authority.	cooperates, where necessary, with the supervisory authority <u>and national</u> <u>supervisory authority</u> . <u>Member States shall ensure that the</u> <u>technical performance of the border</u> <u>control infrastructure, availability,</u> <u>duration of the border checks and the</u> <u>data quality is closely monitored to</u> <u>ensure that each Member State meets</u> <u>the overall requirements for the</u> <u>proper functioning of the EES and an</u> <u>efficient border check process.</u>	 monitoring is in any case carried out in the context of the Schengen evaluations. Member States shall ensure that each authority entitled to access EES data takes the measures necessary to comply with this Regulation and cooperates, where necessary, with the supervisory authorities <u>and</u> <u>mational supervisory authority</u>.
Article 43 Penalties	Article 43 Penalties	Article 43 Penalties	
Member States shall take the necessary measures to ensure that any use of data entered in the EES in contravention of this Regulation is punishable by penalties, including administrative and criminal penalties in accordance with national law, that are effective, proportionate and dissuasive.	Member States shall take the necessary measures to ensure that any use of data entered in the EES in contravention of this Regulation is punishable by penalties, including administrative and criminal penalties in accordance with national law, that are effective, proportionate and dissuasive.	Member States shall take the necessary measures to ensure that any use of data entered in the EES in contravention of this Regulation is punishable by penalties [] in accordance with national law, that are effective, proportionate and dissuasive.	
	Article 43a Data Protection		Provisionally agreed: Article 43a Data Protection
	1. Regulation (EC) No 45/2001 shall apply to the processing of personal data by eu-LISA on the basis of this Regulation.		<i>Provisionally agreed:</i> 1. Regulation (EC) No 45/2001 shall apply to the processing of personal data by eu-LISA on the basis of this Regulation.

2.Regulation (EU) 2016/6shall apply to the processing of personal data by national authorities on the basis of this Regulation, with the exception processing for the purposes ref to in points (j) to (l) of Article 53.Directive (EU) 2016/68	f2. Regulation (EU) 2016/679 shall apply to the processing of personal data by national authorities on the basis of this Regulation, with the exception of processing for the purposes referred to in points (j) to (1) of Article 5-Article 1(2).
s. Directive (EC) 2010/06 shall apply to the processing of personal data by Member State designated authorities on the b of this Regulation for the purp referred to in points (j) to (l) of Article 5.	f3. Directive (EU) 2016/680es'shall apply to the processing ofbasispersonal data by Member States'oosesdesignated authorities on the basis of
4. Regulation (EU) 2016/2 shall apply to the processing of personal data by Europol on the basis of this Regulation.	Provisionally agreed: 4.4.Regulation (EU) 2016/794

CHAPTER VII	CHAPTER VII	CHAPTER VII	
Rights and supervision on data	Rights and supervision on data	Rights and supervision on data	
protection	protection	protection	
Article 44	Article 44	Article 44	
Right of information	Right of information	Right of information	
1. Without prejudice to the right	1. Without prejudice to the right	1. Without prejudice to the right	Provisionally agreed:
of information in Article 10 of	of information in Article 10-13 of	of information in Article 10 of	1. Without prejudice to the right
Directive 95/46/EC, third country	Directive 95/46/EC Regulation (EU)	Directive 95/46/EC, third country	of information in Article 10-13 of
nationals whose data are recorded in	2016/679, third country nationals	nationals whose data are recorded in	Directive 95/46/EC Regulation (EU)
the EES shall be informed by the	whose data are recorded in the EES	the EES shall be informed by the	2016/679, third country nationals
Member State responsible in writing	shall be informed by the Member	Member State responsible in writing	whose data are <i>to be</i> recorded in the
of the following:	State responsible in writing <i>and in a</i>	or in another effective way of the	EES shall be informed by the
	concise, transparent, intelligible and	following:	Member State responsible in writing
	easily accessible form of the		[or in another effective way] of the
	following:		following:
(a) an explanation using clear	(a) an explanation using clear	(a) an explanation using clear	Council to confirm (The Council
and plain language, of the fact that	and plain language, of the fact that	and plain language, of the fact that	amendments on point (a) are
the EES may be accessed by the	the EES may be accessed by the	the EES may be <u>used for the</u>	reflected on point (ea) of the EP
Member States and Europol for law	Member States and Europol for law	purposes of border management, as	text,):
enforcement purposes;	enforcement purposes;	well as the fact that it may be	Provisionally agreed:
		accessed by the Member States and	(a) an explanation using clear
		Europol for law enforcement	and plain language, of the fact that
		purposes;	the EES may be accessed by the
			Member States and Europol for law
			enforcement purposes;
(b) the obligation on visa exempt	(b) the obligation on visa exempt	(b) the obligation on visa exempt	Provisionally agreed:
third country nationals to have their	third country nationals to have their	third country nationals and on	(b) the obligation on visa exempt
fingerprints taken;	fingerprints taken;	holders of a Facilitated Transit	third country nationals and on
		Document (FTD) issued in	holders of a Facilitated Transit
		accordance with Regulation (EC)	Document (FTD) issued in
		<u>693/2003</u> to have their fingerprints	accordance with Regulation (EC)

		taken;	<u>693/2003</u> to have their fingerprints
			taken;
(c) the obligation on all third country nationals subject to registration in the EES to have their facial image recorded;	(c) the obligation on all third country nationals subject to registration in the EES to have their facial image recorded;	(c) the obligation on all third country nationals subject to registration in the EES to have their facial image recorded;	
(d) that the collection of the data	(d) that the collection of the data	(d) that the collection of the data	
is mandatory for the examination of entry conditions;	is mandatory for the examination of entry conditions;	is mandatory for the examination of entry conditions;	
		(d1) an explanation that entry shall	Provisionally agreed:
		be refused if a third country national refuses to provide the requested biometric data for registration, verification and/or_identification in the EES; (d2) the right to ask border check	(d1) <u>an explanation that entry shall</u> <u>be refused if a third country national</u> <u>refuses to provide the requested</u> <u>biometric data for registration,</u> <u>verification and/or_identification in</u> <u>the EES;</u> <u>Linked to Art. 10</u>
		<u>authorities during border checks at</u>	Presidency proposal:
		entry about the maximum remaining number of days of his/her authorised	(d2) the right to receive information about the maximum
		stay,	remaining number of days of his/her authorised stay, either from the border guard at the moment of the border check or by consulting the webservice by means of equipment installed at the border crossing point.
		(d3) the fact that if the maximum duration of authorised stay is exceeded, he/she will be identified as an overstayer, as well as the consequences thereof.	Covered by (ea) below.

		(d4) the retention period for the storage of data,	Covered by (eb) below.
			Provisionally agreed: (d5) an explanation of the fact that personal data stored in the EES may be transferred or made available to a third country or an international organisation listed in Annex I for the purposes of return
(e) the right of access to data relating to them, the right to request that inaccurate data relating to them be corrected or that unlawfully processed data relating to them be deleted, including the right to receive information on the procedures for exercising those rights and contact details of the national supervisory authorities, or of the European Data Protection Supervisor if applicable, which shall hear claims concerning the protection of personal data.	(e) the <i>existence of the</i> right of <i>to request from the controller</i> access to data relating to them, the right to request that inaccurate data relating to them be corrected-rectified and <i>that incomplete personal data</i> <i>relating to them be completed</i> or that unlawfully processed <i>personal</i> data <i>relating to concerning</i> them be deleted, including <i>erased or</i> <i>restricted, as well as</i> the right to receive information on the procedures for exercising those rights, and-including the contact details of the <i>controller and the</i> national supervisory authorities, or of the European Data Protection Supervisor if applicable, which shall hear claims complaints concerning the protection of personal data.	(e) the right of access to data relating to them, the right to request that inaccurate data relating to them be corrected or that unlawfully processed data relating to them be deleted, including the right to receive information on the procedures for exercising those rights and contact details of the <u>supervisory authorities</u> , national supervisory authorities, or of the European Data Protection Supervisor if applicable, which shall hear claims concerning the protection of personal data.	Provisionally agreed : (e) the <i>existence of the</i> right of <i>to request from the controller</i> access to data relating to them, the right to request that inaccurate data relating to them be corrected rectified and <i>that incomplete personal data</i> <i>relating to them be completed</i> or that unlawfully processed <i>personal</i> data <i>relating to concerning</i> them be deleted, including <i>erased or</i> <i>restricted</i> , <i>as well as</i> the right to receive information on the procedures for exercising those rights, and-including the contact details of the <i>controller and the</i> supervisory authorities, or of the European Data Protection Supervisor if applicable, which shall hear claims <i>complaints</i> concerning the protection

			of personal data.
	(ea) an explanation of the fact that EES data shall be accessed for border management and facilitation purposes, specifying that overstays will automatically lead to the addition of the third-country national's data to a list, as well as the possible consequences of overstaying;		Provisionally agreed : (ea) an explanation of the fact that EES data shall be accessed for border management and facilitation purposes, specifying that overstays will automatically lead to the addition of the third-country national's data to a list, as well as the possible consequences of
	(eb) the data retention period set for entry and exit records and for individual files pursuant to Article 31;		overstaying; Provisionally agreed: (eb) the data retention period set for entry and exit records, <u>refusal of</u> <u>entry records</u> , and for individual files pursuant to Article 31;
	(ec) the right for overstayers to have their personal data erased where they provide evidence that they exceeded the authorised duration of stay due to unforeseeable and serious events; and		Provisionally agreed (ec) the right for overstayers to have their personal data erased from the list referred to in Article 11(2) and rectified on the EES, where they provide evidence that they exceeded the authorised duration of stay due to unforeseeable and serious events;
	(ed) the right to lodge a complaint to the supervisory authority.		Provisionally agreed : (ed) the right to lodge a complaint to the supervisory authorities.
2. The information provided in paragraph 1 of this Article shall be provided at the time when the individual file of the person	2 The information provided in paragraph 1 of this Article shall be provided by means of the leaflet referred to in paragraph 3 or by any	2. The information provided in paragraph 1 of this Article shall be provided <u>in writing, or in another</u> <u>effective way,</u> at the time when the	Provisionally agreed The information provided in paragraph 1 of this Article shall be provided <i>in a concise, transparent,</i>

concerned is being created in accordance with Articles 14, 15 or 16.	other appropriate means which ensure that the third-country national concerned is informed of his or her rights at the time when the individual file of that person concerned is being created in accordance with Articles 14, 15 or 16.	individual file of the person concerned is being created in accordance with Articles 14,15 or 16.	<i>intelligible and easily accessible</i> <i>form</i> <u>in writing, or</u> -by any other appropriate means, which ensures that the third-country national is informed of his or her rights, at the time when the individual file of the person concerned is being created in accordance with Articles 14,15 or 16. The Commission shall also set up a website containing the information referred to paragraph 1 of this Article. <i>Commission suggested addition:</i> For that purpose, the Commission shall use the templates referred to in paragraph 3 of this Article, as completed by the Member States. The specifications and conditions for the website <u>shall be adopted in</u> <u>accordance with the examination</u> <u>procedure referred to in Article</u> <u>61(2).</u> Those latter shall be adopted prior to the start of operations of the EES.
			EES. Provisionally agreed New recital 37aa The information to be provided to third country nationals whose data are recorded in the EES, may be

			provided by Member States in writing by any appropriate means, including leaflets, posters or a website.
3. A common leaflet and a	3. A common leaflet and a website	3. [] <u>The</u> common []	Provisionally agreed:
website containing at least the	containing at least the information	information referred to in paragraph	The information referred to in
information referred to in paragraph	referred to in paragraph 1 of this	1 of this Article shall be drawn up	paragraph 1 of this Article shall be
1 of this Article shall be drawn up	Article shall be drawn up and set up	and set up by the Commission in	drawn up and set up by the
and set up by the Commission in	by the Commission in accordance	accordance with the examination	Commission in accordance with the
accordance with the examination	with the examination procedure	procedure referred to in Article 61(2)	examination procedure referred to in
procedure referred to in Article	referred to in Article $61(2)$. The	and [] the content [] shall be	Article $61(2)$ and the content shall be
61(2). The leaflet and the content of	leaflet and the content of the website	clear and [] plain language and	clear and plain language and
the website shall be clear and simple	shall be clear and simple, <i>drafted in</i>	available in a linguistic version the	available in a linguistic version the
and available in a linguistic version	a concise, transparent, intelligible	person concerned understands or is	person concerned understands or is
the person concerned understands or	and easily accessible form and	reasonably supposed to understand.	reasonably supposed to understand.
is reasonably supposed to	available in a linguistic version the	The Commission shall provide the	The Commission shall provide the
understand.	person concerned understands or is	common information in a template.	common information in a template
The leaflet and the website shall be	reasonably supposed to understand.	This template could in particular take	The template shall be established in
established in such a manner as to	The leaflet and the website shall be	the form of a poster. The template	such a manner as to enable Member
enable Member States to complete	established in such a manner as to	[] shall be established in such a	States to complete them with
them with additional Member State	enable Member States to complete	manner as to enable Member States	additional Member State specific
specific information. That Member	them with additional Member State	to complete them with additional	information. That Member State
State specific information shall	specific information. That Member	Member State specific information.	specific information shall include at
include at least the rights of the data	State specific information shall	That Member State specific	least the rights of the data subject,
subject, the possibility of assistance	include at least the rights of the data	information shall include at least the	the possibility of assistance by the
by the national supervisory	subject, the possibility of assistance	rights of the data subject, the	supervisory authorities, as well as
authorities, as well as contact details	by the national supervisory	possibility of assistance by the []	contact details of the office of the
of the office of the controller and	authorities, as well as contact details	supervisory authorities, as well as	controller and of the data protection
national supervisory authorities.	of the office of the controller <i>and of</i>	contact details of the office of the	officer and the national-supervisory
	the data protection officer and the	controller and [] supervisory	authorities.
	national supervisory authorities.	authorities.	

Article 45	Article 45	Article 45	
Information campaign	Information campaign	Information campaign	
The Commission shall, in	The Commission shall, in	The Commission shall, in	Provisionally agreed:
cooperation with the national	cooperation with the national	cooperation with the supervisory	The Commission shall, in
supervisory authorities and the	supervisory authorities and the	authorities and national supervisory	cooperation with the supervisory
European Data Protection	European Data Protection	authorities and the European Data	authorities and the European Data
Supervisor, accompany the start of	Supervisor, accompany the start of	Protection Supervisor, accompany	Protection Supervisor, accompany
the EES operation with an	the EES operation with an	the start of the EES operation with an	the start of the EES operation with an
information campaign informing the	information campaign informing the	information campaign informing the	information campaign informing the
public about the objectives, the data	public and, in particular, third	public about the objectives, the data	public and, in particular, third
stored, the authorities having access	country nationals about the	stored, the authorities having access	<i>country nationals</i> about the
and the rights of persons.	objectives, the data stored, the	and the rights of persons.	objectives, the data stored, the
	authorities having access and the		authorities having access and the
	rights of persons. Such information		rights of persons. Such information
	campaigns shall be conducted		campaigns shall be conducted
	regularly.		regularly.
Article 46	Article 46	Article 46	Provisionally agreed:
Right of access, correction and	Right of access , correction and	Right of access, correction and	Article 46
deletion	deletion to, rectification, completion	deletion	Right of access , correction and
	and of restriction of the processing		deletion to, rectification,
	of personal data		<u>completion, erasure</u> and of
			restriction of the processing of
			personal data
1. Without prejudice to Article	1. Without prejudice to Article	1. [] <u>The requests of third</u>	Provisionally agreed:
12 of Directive 95/46/EC any third	12 Articles 15, 16, 17 and 18 of	country nationals related to the rights	The requests of third country
country national shall have the right	Directive 95/46/EC Regulation (EU)	set out in Article 12 of Directive	nationals related to the rights set out
to obtain the data relating to him or	2016/679 any third country national	95/46/EC may be addressed to the	in Articles 15, 16, 17 and 18 of
her recorded in the EES and of the	shall have the right to obtain the data	<u>competent authority of any Member</u>	Regulation (EU) 2016/679 may be
Member State which transmitted it to	relating to him or her recorded in the	State.	addressed to the competent authority
the EES.	EES and of the Member State which		of any Member State.
	transmitted it to the EES and may		The Member State responsible or the

	request that data relating to him or		Member State to whom the request
	her which are inaccurate be		has been made shall reply to such
	rectified or completed and that data		requests within 45 days of receipt of
	recorded unlawfully be erased. The		the request.
	Member State responsible shall		
	reply to such requests within two		
	months of receipt of the request.		
2. If a request for correction or	2. If a request for correction or	2. If a request [] is made to a	Compromise text provisionally
deletion is made to a Member State	deletion rectification, completion or	Member State other than the Member	agreed
other than the Member State	erasure of personal data or	State responsible, the authorities of	2. If a request for correction or
responsible, the authorities of the	restriction of the processing of	the Member State to which the	deletion rectification, completion or
Member State to which the request	personal data is made to a Member	request has been made shall check	erasure of personal data or
has been made shall check the	State other than the Member State	the accuracy of the data and the	restriction of the processing of
accuracy of the data and the	responsible, the authorities of the	lawfulness of the data processing in	personal data is made to a Member
lawfulness of the data processing in	Member State to which the request	the EES within a time limit of one	State other than the Member State
the EES within a time limit of one	has been made shall check the	month if that check can be done	responsible, the authorities of the
month if that check can be done	accuracy of the data and the	without consulting the Member State	Member State to which the request
without consulting the Member State	lawfulness of the data processing in	responsible. Otherwise the Member	has been made shall check the
responsible. Otherwise the Member	the EES within a time limit of one	State other than the Member State	accuracy of the data and the
State other than the Member State	month 14 days if that check can be	responsible shall contact the	lawfulness of the data processing in
responsible shall contact the	done without consulting the Member	authorities of the Member State	the EES within a time limit of 1
authorities of the Member State	State responsible. Otherwise the	responsible within a time limit of 14	month if that check can be done
responsible within a time limit of 14	Member State other than the Member	days and the Member State	without consulting the Member State
days and the Member State	State responsible shall contact the	responsible shall check the accuracy	responsible. Otherwise the Member
responsible shall check the accuracy	authorities of the Member State	of the data and the lawfulness of the	State other than the Member State
of the data and the lawfulness of the	responsible within a time limit of 14	data processing within a time limit of	responsible shall contact the
data processing within a time limit of	seven days and the Member State	one month.	authorities of the Member State
one month.	responsible shall check the accuracy		responsible within a time limit of
	of the data and the lawfulness of the		seven days and the Member State
	data processing within a time limit of		responsible shall check the accuracy
	one month 14 days.		of the data and the lawfulness of the
			data processing within a time limit of
			1 month.

		l de la constante de	
3. In the event that data	3. In the event that data recorded in	3. In the event that data	Compromise text provisionally
recorded in the EES are factually	the EES are factually inaccurate,	recorded in the EES are factually	<mark>agreed</mark>
inaccurate or have been recorded	<i>incomplete</i> or have been recorded	inaccurate or have been recorded	3. In the event that data
unlawfully, the Member State	unlawfully, the Member State	unlawfully, the Member State	recorded in the EES are factually
responsible or, where applicable, the	responsible or, where applicable, the	responsible or, where applicable, the	inaccurate, incomplete or have been
Member State to which the request	Member State to which the request	Member State to which the request	recorded unlawfully, the Member
has been made shall correct or delete	has been made shall <i>rectify</i> , <i>complete</i>	has been made shall correct or delete	State responsible or, where
the data in accordance with Article	or erase the personal data or restrict	the data in accordance with Article	applicable, the Member State to
32. The Member State responsible or,	the processing of personal correct or	32. The Member State responsible or,	which the request has been made
where applicable, the Member State	delete the data in accordance with	where applicable, the Member State	shall rectify, complete or erase the
to which the request has been made	Article 32. The Member State	to which the request has been made	personal data or restrict the
shall confirm in writing to the person	responsible or, where applicable, the	shall confirm in writing to the person	processing of personal data in
concerned without delay that it has	Member State to which the request	concerned without delay that it has	accordance with Article 32. The
taken action to correct or delete data	has been made shall confirm in	taken action to correct or delete data	Member State responsible or, where
relating to him.	writing to the person concerned	relating to him.	applicable, the Member State to
In the event that visa-related data	without delay that it has taken action	In the event that visa-related data	which the request has been made
recorded in the EES are factually	to correct or delete rectify, complete	recorded in the EES are factually	shall confirm in writing to the person
incorrect or have been recorded	or erase the personal data	incorrect or have been recorded	concerned without delay that it has
unlawfully, the Member State	<i>concerning</i> relating to him <i>or her or</i>	unlawfully, the Member State	taken action to rectify, complete or
responsible or, where applicable, the	to restrict the processing of such	responsible or, where applicable, the	erase the personal data concerning
Member State to which the request	personal data.	Member state to which the request	him or her or to restrict the
has been made shall first check the	In the event that visa-related data	has been made shall first check the	processing of such personal data.
accuracy of these data against the	recorded in the EES are factually	accuracy of these data against the	In the event that visa-related data
VIS and if necessary will amend	incorrect, incomplete or have been	VIS and if necessary will amend	recorded in the EES are factually
them in the EES. Should the data	recorded unlawfully, the Member	them in the EES. Should the data	incorrect, incomplete or have been
recorded in the VIS be the same as in	State responsible or, where	recorded in the VIS be the same as in	recorded unlawfully, the Member
the EES, the Member State	applicable, the Member State to	the EES, the Member State	State responsible or, where
responsible or the Member State to	which the request has been made	responsible or, where applicable, the	applicable, the Member State to
which the request was made, shall	shall first check the accuracy of these	Member state to which the request	which the request has been made
contact the authorities of the Member	data against the VIS and if necessary	[] <u>has been</u> made, shall contact the	shall first check the accuracy of these
State responsible for entering these	will amend them in the EES. Should	authorities of the Member State	data against the VIS and if necessary
data in the VIS within a time limit of	the data recorded in the VIS be the	responsible for entering these data in	will amend them in the EES. Should
14 days. The Member State	same as in the EES, the Member	the VIS within a time limit of 14	the data recorded in the VIS be the

responsible for entering the data in the VIS shall check the accuracy of the visa related data and the lawfulness of its processing in the EES within a time limit of one month and inform the Member State responsible or the Member State to which the request has been made which shall, if necessary, amend or erase them without delay from the EES and, where applicable, from the list of persons referred to in Article 11(2).	State responsible or the Member State to which the request was made, shall contact the authorities of the Member State responsible for entering these data in the VIS within a time limit of 14 <i>seven</i> days. The Member State responsible for entering the data in the VIS shall check the accuracy of the visa related data and the lawfulness of its processing in the EES within a time limit of one month and inform the Member State responsible or the	days. The Member State responsible for entering the data in the VIS shall check the accuracy of the visa related data and the lawfulness of its processing in the EES within a time limit of one month and inform the Member State <u>concerned</u> [] which shall, if necessary, amend or erase them without delay from the EES and, where applicable, from the list of persons referred to in Article 11(2).	same as in the EES, the Member State responsible or, where applicable, the Member State to which the request has been made, shall contact the authorities of the Member State responsible for entering these data in the VIS within a time limit of seven days. The Member State responsible for entering the data in the VIS shall check the accuracy of the visa related data and the lawfulness of its processing in the EES within a time limit of one month and inform the
	Member State to which the request has been made which shall, if necessary, amend or <i>rectify</i> ,		Member State responsible or the Member State to which the request
	<i>complete or</i> erase them <i>the personal data concerning him or her or</i>		has been made (concerned) which shall, if necessary, rectify, complete
	restrict the processing of such data		or erase the personal data
	without delay from the EES and,		concerning him or her or restrict
	where applicable, from the list of		the processing of such data without
	persons referred to in Article 11(2).		delay from the EES and, where
			applicable, from the list of persons
			referred to in Article 11(2).
4. If the Member State	4. If the Member State	4. If [] the Member State to	Provisionally qgreed:
responsible or, where applicable, the	responsible or, where applicable, the	which the request has been made	4. If the Member State
Member State to which the request	Member State to which the request	does not agree that data recorded in	responsible or, where applicable, the
has been made does not agree that data recorded in the EES are	has been made does not agree that data recorded in the EES are	the EES are factually inaccurate or have been recorded unlawfully, that	Member State to which the request has been made does not agree that
			data recorded in the EES are
factually inaccurate or have been recorded unlawfully, that Member	factually inaccurate, <i>incomplete</i> or have been recorded unlawfully, that	Member State shall adopt an administrative decision explaining in	factually inaccurate, <i>incomplete</i> or
State shall adopt an administrative	Member State shall adopt an	writing to the person concerned	have been recorded unlawfully, that
decision explaining in writing to the	administrative decision explaining in	without delay why it is not prepared	Member State shall adopt an
decision explaining in writing to the		without delay willy it is not prepared	wiember State Shan adopt an

person concerned without delay why it is not prepared to correct or delete data relating to him.	writing to the person concerned without delay why it is not prepared to correct or delete rectify, complete or erase the personal data relating to him or her or restrict the processing of such data.	to correct or delete data relating to him.	administrative decision explaining in writing to the person concerned without delay why it is not prepared to <i>rectify</i> , <i>complete or erase the</i> <i>personal</i> data relating to him <i>or her</i> <i>or restrict the processing of such</i> <i>data</i> .
5. The Member State responsible or, where applicable, the Member State to which the request has been made shall also provide the person concerned with information explaining the steps which he can take if he does not accept the explanation for the decision pursuant to paragraph 5. This shall include information on how to bring an action or a complaint before the competent authorities or courts of that Member State and any assistance, including from the supervisory authorities, that is available in accordance with the laws, regulations and procedures of that Member State.	5. The Member State responsible or, where applicable, the Member State to which the request has been made shall also provide the person concerned with information explaining the steps which he can take if he does not accept the explanation for the decision pursuant to paragraph 54 . This shall include information on how to bring an action or a complaint before the competent authorities or courts of that Member State and any assistance, including from the supervisory authorities, that is available in accordance with the laws, regulations and procedures of that Member State.	5. The Member State which has adopted the administrative decision pursuant to paragraph 4 [] shall also provide the person concerned with information explaining the steps which he can take if he does not accept the explanation. [] This shall include information on how to bring an action or a complaint before the competent authorities or courts of that Member State and any assistance, including from the supervisory authorities, that is available in accordance with the laws, regulations and procedures of that Member State.	Provisionally agreed: 5. The Member State which has adopted the administrative decision pursuant to paragraph 4 shall also provide the person concerned with information explaining the steps which he can take if he does not accept the explanation. This shall include information on how to bring an action or a complaint before the competent authorities or courts of that Member State and any assistance that is available in accordance with the laws, regulations and procedures of that Member State, including from the supervisory authority established in accordance with Article 51(1) of Regulation (EU) 2016/679.
6. Any request made pursuant to paragraphs 1 and 2 shall contain the necessary information to identify the person concerned, including fingerprints. That information shall be used exclusively to enable t the exercise of the rights referred to in	6. Any request made pursuant to paragraphs 1 and 2 shall contain the necessary minimum information necessary to identify the person concerned., including fingerprints. Fingerprints may be requested for this purpose only in duly justified	6. Any request made pursuant to paragraphs 1 and 2 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 paragraphs 1 and	 Provisionally agreed 6. Any request made pursuant to paragraphs 1 and 2 shall contain the <i>minimum</i> information <i>necessary</i> to identify the person concerned. Fingerprints may be requested for this purpose only in duly justified

 paragraphs 1 and 2 and shall be erased immediately afterwards. 7. Whenever a person requests data relating to him in accordance with paragraph 2, the competent authority shall keep a record in the form of a written document that such a request was made and how it was addressed and by which authority and shall make that document available to the national supervisory authorities without delay. 	 cases where there are substantive doubts as to the identity of the applicant. That information shall be used exclusively to enable the exercise of the rights referred to in paragraphs 1 and 2 and shall be erased immediately afterwards. 7. Whenever a person requests data relating to him in accordance with paragraph 2, the competent authority shall keep a record in the form of a written document that such a request was made and how it was addressed and by which authority and shall make that document available to the national supervisory authorities without delay. within seven days. A copy of that document shall also be issued to the person concerned. 	 2 and shall be erased immediately afterwards. 7. Whenever a person requests data relating to him in accordance with paragraph 2, the competent authority shall keep a record in the form of a written document that such a request was made and how it was addressed and by which authority and shall make that document available to the [] supervisory authorities without delay. 	cases where there are substantive doubts as to the identity of the applicant. That information shall be used exclusively to enable the exercise of the rights referred to in paragraphs 1 and 2 and shall be erased immediately afterwards.Provisionally agreed7.Whenever a person made a request in accordance with paragraph I, the competent authority of the Member State reponsible or of the Member State to whom the request has been made shall keep a record in the form of a written document that such a request was made and how it was addressed and by which authority and shall make that document available to the supervisory authority established in accordance with Article 51(1) of Regulation (EU) 2016/679, within
			seven days.
Article 47 Cooperation to ensure the rights on data protection	Article 47 Cooperation to ensure the rights on data protection	Article 47 Cooperation to ensure the rights on data protection	
1. The competent authorities of the Member States shall cooperate actively to enforce the rights laid down in Article 46(3), (4) and (5).	1. The competent authorities of the Member States shall cooperate actively to enforce the rights laid down in Article $46(3)$, (4) and (5).	1. The competent authorities of the Member States shall cooperate actively to enforce the rights laid down in Article 46(3), (4) and (5).	 Provisionally agreed: 1. The competent authorities of the Member States shall cooperate actively to enforce the rights laid down in Article 46.

2. In each Member State, the supervisory authority shall, upon request, assist and advise the person concerned in exercising his right to correct or delete data relating to him in accordance with Article 28(4) of Directive 95/46/EC. In order to achieve those aims, the supervisory authority of the Member State responsible which transmitted the data and the supervisory authorities of the Member States to which the request has been made shall cooperate with each other.	2. In each Member State, the supervisory authority shall, upon request, assist and advise the person concerned data subject in exercising his or her right to correct or delete rectify, complete or erase personal data relating to him or her or to restrict such data in accordance with Article 28(4) of Directive 95/46/EC Regulation (EU) 2016/679. In order to achieve those aims, the supervisory authority of the Member State responsible which transmitted the data and the supervisory authorities of the Member States to which the request has been made shall cooperate with each other.	2. In each Member State, the supervisory authority shall, upon request, assist and advise the person concerned in exercising his right to correct or delete data relating to him in accordance with Article 28(4) of Directive 95/46/EC. In order to achieve those aims, the supervisory authority of the Member State responsible which transmitted the data and the supervisory authorities of the Member States to which the request has been made shall cooperate with each other.	 Provisionally agreed 2. In each Member State, the supervisory authority established in accordance with Article 51(1) of Regulation (EU) 2016/679, shall, upon request, assist and advise the person data subject in exercising his or her right to rectify, complete or erase personal data relating to him or her or to restrict such data in accordance with Regulation (EU) 2016/679. In order to achieve those aims, the supervisory authority of the Member State responsible which transmitted the data and the supervisory authority of the Member State to which the request has been made
Article 48	Article 48	Article 48	shall cooperate with each other.
Remedies	Remedies	Remedies	
1. In each Member State any person shall have the right to bring	1. In-Without prejudice to Articles 77 to 82 of Regulation (EU)	1. In each Member State any person shall have the right to bring	Provisionally agreed: 1. Without prejudice to Articles
an action or a complaint before the	2016/679, in each Member State any	an action or a complaint [] in the	77 to 82 and 79 of Regulation (EU)
competent authorities or courts of	person shall have the right to bring	Member State which refused the	2016/679, in each Member State any
that Member State which refused the right of access to or the right of	an action or a complaint before the competent authorities or courts of	right of access to or the right of correction or deletion of data relating	person shall have the right to bring an action , [<i>including a judicial one</i>],
correction or deletion of data relating	that Member State which refused the	to him, provided for in Article 46 and	or a complaint before the competent
to him, provided for in Article 46.	right of access to or the right of	47(2).	authorities or courts of that Member
, r	rectification, completion or erasure		State which refused the right of
	correction or deletion of data relating		access to or right of <i>rectification</i> ,

	to him, provided for in Article 46. <i>The right to bring such an action or</i> <i>complaint shall also apply in cases</i> <i>where requests for access,</i> <i>correction or deletion were not</i> <i>answered within the deadlines</i> <i>provided for in Article 46 or were</i> <i>never dealt with by the data</i> <i>controller.</i>		<i>completion or erasure</i> correction or deletion of data relating to him, provided for in Article 46 and 47(2). The right to bring such an action or complaint shall also apply in cases where requests for access, correction or deletion were not answered within the deadlines provided for in Article 46 or were never dealt with by the data controller.
2. The assistance of the	2. The assistance of the	2. The assistance of the	Provisionally agreed:
supervisory authorities shall remain	supervisory authorities shall remain	supervisory authorities shall remain	2. The assistance of the supervisory
available throughout the proceedings.	available throughout the proceedings.	available throughout the proceedings.	authority established in accordance
			with Article 51(1) of Regulation
			(EU) 2016/679 shall remain
			available throughout the proceedings
Article 49	Article 49	Article 49	Provisionally agreed:
Supervision by the national	Supervision by the national	Supervision by the [] supervisory	Article 49
supervisory authority	supervisory authority	authority	Supervision by the [] supervisory
			authority
1. Each Member State shall	1. Each Member State shall	1. Each Member State shall	Compromise text provisionally
ensure that the national supervisory	ensure that the national supervisory	ensure that the [] supervisory	agreed.
authority or authorities designated	authority or authorities designated	authority or authorities designated	1. Each Member State shall
pursuant to Article 28(1) of Directive	pursuant to Article $\frac{28(1)}{51(1)}$ of	pursuant to Article 28(1) of Directive	ensure that the supervisory
95/46/EC shall monitor the	Directive 95/46/EC Regulation (EU)	95/46/EC shall monitor the	authority established in
lawfulness of the processing of	2016/679 shall independently	lawfulness of the processing of	accordance with Article 51(1) of
personal data referred to in Articles	monitor the lawfulness of the	personal data referred to in Articles	Regulation (EU) 2016/679 shall
13 to 19 by the Member State	processing of personal data referred	13 to 19 by the Member State	<i>independently</i> monitor the
concerned, including their	to in Chapters II, III and V of this	concerned, including their	lawfulness of the processing of
transmission to and from the EES.	Regulation Articles 13 to 19 by the	transmission to and from the EES.	personal data referred to in <i>Chapters</i>
	Member State concerned, including		II, III <u>,</u> V <u>and VI</u> of this Regulation

	their transmission to and from the EES.		by the Member State concerned, including their transmission to and from the EES.
2. The supervisory authority shall ensure that an audit of the data processing operations in the National System is carried out in accordance with relevant international auditing standards at least every four years.	2. The supervisory authority <i>or</i> <i>authorities</i> shall ensure that an audit of the data processing operations in the National System national border <i>infrastructure</i> is carried out in accordance with relevant international auditing standards at least every four two years.	2. The supervisory authority shall ensure that an audit of the data processing operations in the National System is carried out in accordance with relevant international auditing standards at least every four years from the start of operations of the <u>EES</u> .	Compromise text provisionally agreed – subject to the time element in square brackets: 2. The supervisory authority referred to in paragraph 1 shall ensure that an audit of the data processing operations in the national border infrastructure is carried out in accordance with relevant international auditing standards at least every [four two years] from the start of operations of the EES. LIBE proposal Addition following discussion on Article 64: The supervisory authority referred to in paragraph 1 shall publish annually the number of requests for corrections of data, the action subsequently taken and the number of corrections made in response to requests by the persons concerned
3. Member States shall ensure that their supervisory authority has sufficient resources to fulfil the tasks entrusted to it under this Regulation.	3. Member States shall ensure that their <i>independent</i> supervisory authority <i>or authorities have</i> sufficient resources to fulfil the tasks entrusted to <i>them</i> under this Regulation.	3. Member States shall ensure that their supervisory authority has sufficient resources to fulfil the tasks entrusted to it under this Regulation.	 Compromise text provisionally agreed (merged with par. 5a of EP text): 3. Member States shall ensure that their supervisory <u>authority</u> referred to in paragraph 1 has sufficient resources to fulfil the tasks

			entrusted to <i>it</i> under this Regulation and has access to advice from persons with sufficient knowledge of biometric data.
4. In relation to the processing of personal data in the EES, each Member State shall designate the authority which is to be considered as controller in accordance with Article 2(d) of Directive 95/46/EC and which shall have central responsibility for the processing of data by this Member State. Each Member State shall communicate the details of this authority to the Commission.	deleted	4. []	
5. Each Member State shall supply any information requested by the supervisory authorities and shall, in particular, provide them with information on the activities carried out in accordance with Articles 35, 36(1) and 39. Each Member State shall grant the supervisory authorities access to their records pursuant to Article 30 and allow them access at all times to all their EES related premises.	5. Each Member State shall supply any information requested by the supervisory authorities and shall, in particular, provide them with information on the activities carried out in accordance with Articles 35, 36(1) and 39. Each Member State shall grant the supervisory authorities access to their records pursuant to Article 41 and allow them access at all times to all their EES related premises.	5. Each Member State shall supply any information requested by the supervisory authorities and shall, in particular, provide them with information on the activities carried out in accordance with Articles 35, 36(1) and 39. Each Member State shall grant the supervisory authorities access to their records pursuant to Article [] <u>41</u> and allow them access at all times to all their EES related premises.	 Compromise text provisionally agreed: 5. Each Member State shall supply any information requested by the supervisory authority referred to in paragraph 1 and shall, in particular, provide it with information on the activities carried out in accordance with Articles 35, 36(1) and 39. Each Member State shall grant the supervisory authority access to their <u>logs</u> pursuant to Article <u>41</u> and allow it access at all times to all their EES related

	5a. Each Member State shall ensure that its supervisory authority or authorities have access to advice from persons with sufficient knowledge of biometric data.		Merged with par. 3.
Article 50	Article 50	Article 50	
Supervision by the European Data	Supervision by the European Data	Supervision by the European Data	
Protection Supervisor	Protection Supervisor	Protection Supervisor	
1. The European Data	1. The European Data	1. The European Data	Provisionally agreed:
Protection Supervisor shall ensure	Protection Supervisor shall ensure	Protection Supervisor shall ensure	1. The European Data
that the personal data processing	that be responsible for monitoring	that the personal data processing	Protection Supervisor shall be
activities of eu-LISA concerning the	that the personal data processing	activities of eu-LISA concerning the	responsible for monitoring the
EES are carried out in accordance	activities of eu-LISA concerning the	EES are carried out in accordance	personal data processing activities of
with this Regulation.	EES and for ensuring that such	with this Regulation.	eu-LISA concerning the EES and for
	activities are carried out in		ensuring that such activities are
	accordance with this-Regulation		carried out in accordance with this
	(EC) No 45/2001 and with this		Regulation (EC) No 45/2001 and
	Regulation.		with this Regulation.
2. The European Data	2. The European Data	2. The European Data	Provisionally agreed, except square
Protection Supervisor shall ensure	Protection Supervisor shall ensure	Protection Supervisor shall ensure	brackets:
that an audit of the Agency's personal	that an audit of the Agency's eu-	that an audit of the Agency's personal	2. The European Data
data processing activities is carried	<i>LISA</i> 's personal data processing	data processing activities is carried	Protection Supervisor shall ensure
out in accordance with relevant	activities is carried out in accordance	out in accordance with relevant	that an audit of <i>eu-LISA</i> 's personal
international auditing standards at	with relevant international auditing	international auditing standards at	data processing activities is carried
least every four years. A report of	standards at least every four two	least every four years. A report of	out in accordance with relevant
that audit shall be sent to the	years. A report of that audit shall be	that audit shall be sent to the	international auditing standards at
European Parliament, the Council,	sent to the European Parliament, the	European Parliament, the Council,	least every [four two years]. A report
eu-LISA, the Commission and the	Council, eu-LISA, the Commission,	eu-LISA, the Commission, [] the	of that audit shall be sent to the
national supervisory authorities. eu-	<i>eu-LISA</i> and the national	supervisory authorities and "the"	European Parliament, the Council,
LISA shall be given an opportunity	supervisory authorities. eu-LISA	national supervisory authorities. eu-	the Commission, <i>eu-LISA</i> and the
to make comments before the report	shall be given an opportunity to	LISA shall be given an opportunity	national supervisory authorities.

is adopted.	make comments before the report is adopted.	to make comments before the report is adopted.	eu-LISA shall be given an opportunity to make comments before the report is adopted.
 3. eu-LISA shall supply information requested by the European Data Protection Supervisor, give him access to all documents and to its records referred to in Article 41 and allow him access to all its premises at any time. <i>Article 51</i> <i>Cooperation between national</i> <i>supervisory authorities and the</i> <i>European Data Protection</i> <u><i>Supervisor</i></u> 1. The national supervisory authorities and the European Data Protection Supervisor shall actively cooperate within the framework of their responsibilities and shall ensure coordinated supervision of the EES and the National Systems. 	 3. eu-LISA shall supply information requested by the European Data Protection Supervisor, give him access to all documents and to its records referred to in Article 41 and allow him access to all its premises at any time. Article 51 Cooperation between national supervisory authorities and the European Data Protection Supervisor 1. The national supervisory authorities and the European Data Protection Supervisor shall, each acting within the scope of their respective competences, cooperate actively cooperate within in the framework of their responsibilities and shall ensure coordinated supervision of the EES and the National Systems national border infrastructures. (Harizental abance to abange 	 3. eu-LISA shall supply information requested by the European Data Protection Supervisor, give him access to all documents and to its records referred to in Article 41 and allow him access to all its premises at any time. Article 51 Cooperation <u>among</u> [] <u>supervisory</u> <u>authorities</u>, national supervisory <u>authorities</u> and the European Data <u>Protection Supervisor</u> 1. The <u>supervisory authorities</u>, national supervisory authorities and the European Data Protection Supervisor shall actively cooperate within the framework of their responsibilities and shall ensure coordinated supervision of the EES and the National Systems. 	before the report is adopted.Provisionally agreed Article 51 Cooperation between supervisory authorities and the European Data Protection SupervisorProvisionally agreed: 1. The supervisory authorities and the European Data Protection Supervisor shall, each acting within the scope of their respective competences, cooperate actively in the framework of their responsibilities and shall ensure coordinated supervision of the EES and the national border infrastructures.
2. They shall exchange relevant	 (Horizontal change to change "national systems" to "national border infrastructures" with the exception of Article 58.) 2. They shall exchange relevant 	2. They shall exchange relevant	Provisionally agreed:
information, assist each other in carrying out audits and inspections,	information, assist each other in carrying out audits and inspections,	information, assist each other in carrying out audits and inspections,	2. They shall exchange relevant information, assist each other in

examine difficulties over the interpretation or application of this Regulation, assess problems in the exercise of independent supervision	examine difficulties over the interpretation or application of this Regulation, assess problems in the exercise of independent supervision	examine difficulties over the interpretation or application of this Regulation, assess problems in the exercise of independent supervision	carrying out audits and inspections, examine difficulties over the interpretation or application of this Regulation, assess problems in the
or the exercise of the rights of the data subject, draw up harmonised proposals for joint solutions to any problems and promote awareness of data protection rights, as necessary.	or <i>in</i> the exercise of the rights of the data subject, draw up harmonised proposals for joint solutions to any problems and promote awareness of data protection rights, as necessary.	or the exercise of the rights of the data subject, draw up harmonised proposals for joint solutions to any problems and promote awareness of data protection rights, as necessary.	exercise of independent supervision or <i>in</i> the exercise of the rights of the data subject, draw up harmonised proposals for joint solutions to any problems and promote awareness of
3. The supervisory authorities and the European Data Protection Supervisor shall meet for that purpose at least twice a year. The costs of these meetings shall be borne by the European Data Protection Supervisor. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.	3. The supervisory authorities and the European Data Protection Supervisor shall meet for that purpose at least twice a year. The costs of these meetings shall be borne by the European Data Protection Supervisor. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.	3. The supervisory authorities, <u>national supervisory authorities</u> and the European Data Protection Supervisor shall meet for that purpose at least twice a year. The costs of these meetings shall be borne by the European Data Protection Supervisor. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.	 data protection rights, as necessary. <i>Provisionally agreed:</i> 3. The supervisory authorities and the European Data Protection Supervisor shall meet for that purpose at least twice a year <i>within the framework of the European Data Protection Board established by Regulation (EU) 2016/679.</i> The costs <i>and servicing</i> of these meetings shall be borne by the <i>Board established by Regulation (EU) 2016/679.</i> Rules of procedure shall be adopted at the first meeting.
4. A joint report of activities	4. A joint report of activities	4. A joint report of activities	Further working methods shall be developed jointly as necessary. Provisionally agreed:
shall be sent to the European Parliament, the Council, the	shall be sent to the European Parliament, the Council, the	shall be sent to the European Parliament, the Council, the	4. A joint report of activities shall be sent by <i>the European Data</i>
Commission and eu-LISA every two	Commission and eu-LISA every two	Commission and eu-LISA every two	Protection Board established by
years. That report shall include a	years. That report shall include a	years. That report shall include a	Regulation (EU) 2016/679 to the
chapter of each Member State	chapter of each Member State	chapter of each Member State	European Parliament, the Council,
prepared by the supervisory authority	prepared by the supervisory authority	prepared by the supervisory authority	the Commission and eu-LISA every
of that Member State.	of that Member State.	and national supervisory authority of	two years. That report shall include a

Article 52Protection of personal data for law enforcement access1.Each Member State shall ensure that the provisions adopted under national law implementing Framework Decision 2008/977/JHA are also applicable to the access to EES by its national authorities in line with Article 1(2).	Article 52 Protection of personal data for law enforcement access 1. Each Member State shall ensure that the provisions adopted under national law implementing Framework Decision 2008/977/JHA Directive (EU) 2016/680 are also applicable to the access to EES by its national authorities in line with Article 1(2).	that Member State. Article 52 Protection of personal data for law enforcement access 1. Each Member State shall ensure that the provisions adopted under national law implementing Framework Decision 2008/977/JHA are also applicable to the access to EES by its national authorities in line with Article 1(2).	chapter of each Member State prepared by the supervisory authorities of that Member State. Compromise text provisionally agreed: Article 52 Protection of personal data <u>accessed</u> in accordance with Chapter IV Provisionally agreed: 1. Each Member State shall ensure that the provisions adopted under national law implementing Directive (EU) 2016/680 are also applicable to the access to EES by its national authorities in line with Article 1(2) and to the rights of persons falling within the scope of the present Regulation.
	2. The monitoring of the lawfulness of the access to personal data by the Member States for the purposes listed in Article 1(2) 5(1a) of this Regulation, including their transmission to and from the EES, shall be carried out by the national supervisory authorities designated pursuant to Framework Decision 2008/977/JHA Directive (EU) 2016/680.	2. The monitoring of the lawfulness of the access to personal data by the Member States for the purposes listed in Article 1(2) of this Regulation, including their transmission to and from the EES, shall be carried out by the national supervisory authorities designated pursuant to Framework Decision 2008/977/JHA.	Compromise text provisionally agreed: 2. The monitoring of the lawfulness of the access to personal data by the Member States <u>in</u> <u>accordance with Chapter IV</u> of this Regulation, including their transission to and from the EES, shall be carried out by the supervisory authority established in accordance with Article 41(1) of Directive (EU) 2016/680. Article 49(3) and (5) applies

			accordingly.
3. The processing of personal data by Europol shall be carried out in accordance with Decision 2009/371/JHA and shall be supervised by an independent external data protection supervisor. Articles 30, 31 and 32 of that Decision shall be applicable to the processing of personal data by Europol pursuant to this Regulation. The independent external data protection supervisor shall ensure that the rights of the third country national are not infringed.	3. The processing of personal data by Europol <i>pursuant to this</i> <i>Regulation</i> shall be carried out in accordance with Decision 2009/371/JHA Regulation (EU) 2016/794 and shall be supervised by an independent external data protection supervisor. Articles 30, 31 and 32 of that Decision shall be applicable to the processing of personal data by Europol pursuant to this Regulation. The independent external data protection supervisor shall ensure that the rights of the third country national are not infringed the European Data Protection Supervisor.	3. The processing of personal data by Europol shall be carried out in accordance with Decision 2009/371/JHA and shall be supervised by an independent external data protection supervisor. Articles 30, 31 and 32 of that Decision shall be applicable to the processing of personal data by Europol pursuant to this Regulation. The independent external data protection supervisor shall ensure that the rights of the third country national are not infringed.	Provisionally agreed : 3. The processing of personal data by Europol pursuant to this Regulation shall be carried out in accordance with Regulation (EU) 2016/794 and shall be supervised by the European Data Protection Supervisor.
4. Personal data accessed in the EES for the purposes laid down in Article 1(2) shall only be processed for the purposes of the prevention, detection or investigation of the specific case for which the data have been requested by a Member State or by Europol.	 4. Personal data accessed in the EES for the purposes laid down in Article 1(2) 5(1a) shall only be processed for the purposes of the prevention, detection or investigation of the specific case for which the data have been requested by a Member State or by Europol. 	4. Personal data accessed in the EES for the purposes laid down in Article 1(2) shall only be processed for the purposes of the prevention, detection or investigation of the specific case for which the data have been requested by a Member State or by Europol.	 <i>Compromise text provisionally agreed:</i> 4. Personal data accessed in the EES <i>in accordance with Chapter IV</i> shall only be processed for the purposes of the prevention, detection or investigation of the specific case for which the data have been requested by a Member State or by Europol. LIBE proposal Addition following discussion on Article 64: <i>The supervisory</i>_authority

			established in accordance with Article 41(1) of Directive (EU) 2016/680.shall publish annually the number of requests for corrections of data, the action subsequently taken and the number of corrections made in response to requests by the persons concerned.
5. The Central System, the designated authorities, the central	5. The Central System, the designated authorities, the central	5. The Central System, the designated authorities, the central	<i>Provisionally agreed</i> : 5. The Central System, the
access points and Europol shall keep	access points and Europol shall keep	access points and Europol shall keep	designated authorities, the central
records of the searches for the	records of the searches for the	records of the searches for the	access points and Europol shall keep
purposes of enabling the national	purposes of enabling the national	purposes of enabling the national	records of the searches for the
data protection authorities and the	data protection authorities and the	data protection authorities and the	purposes of enabling the national
European Data Protection Supervisor to monitor the compliance of data	European Data Protection Supervisor to monitor the compliance of data	European Data Protection Supervisor to monitor the compliance of data	data protection authorities and the European Data Protection Supervisor
processing with Union data	processing with Union data	processing with Union data	to monitor the compliance of data
protection rules. Other than for such	protection rules, <i>including for the</i>	protection rules. Other than for such	processing with Union data
purpose, personal data, as well as the	purpose of maintaining records in	purpose, personal data, as well as the	protection rules. Other than for such
records of the searches, shall be	order to prepare the annual reports	records of the searches, shall be	purpose, personal data, as well as the
erased in all national and Europol	referred to in Article 64(8). Other	erased in all national and Europol	records of the searches, shall be
files after a period of one month, unless those data and records are	than for such purpose, personal data, as well as the records of the searches,	files after a period of one month, unless those data and records are	erased in all national and Europol files after a period of one month,
required for the purposes of the	shall be erased in all national and	required for the purposes of the	unless those data and records are
specific ongoing criminal	Europol files after a period of one	specific ongoing criminal	required for the purposes of the
investigation for which they were	month, unless those data and records	investigation for which they were	specific ongoing criminal
requested by a Member State or by	are required for the purposes of the	requested by a Member State or by	investigation for which they were
Europol.	specific ongoing criminal	Europol.	requested by a Member State or by
	investigation for which they were requested by a Member State or by		Europol.
	Europol.		

Article 53	Article 53	Article 53	
Logging and documentation	Logging and documentation	Logging and documentation	
1. Each Member State and	1. Each Member State and	1. Each Member State and	Compromise text provisionally
Europol shall ensure that all data	Europol shall ensure that all data	Europol shall ensure that all data	agreed:
processing operations resulting from	processing operations resulting from	processing operations resulting from	1. Each Member State and
requests to access to EES data for the	requests to access to EES data for the	requests to access to EES data for the	Europol shall ensure that all data
purposes laid down in Article 1(2)	purposes laid down in Article 1(2)	purposes laid down in Article 1(2)	processing operations resulting from
are logged or documented for the	5(1a) are logged or documented for	are logged or documented for the	requests to access to EES data in
purposes of checking the	the purposes of checking the	purposes of checking the	accordance with Chapter IV are
admissibility of the request,	admissibility of the request,	admissibility of the request,	logged or documented for the
monitoring the lawfulness of the data	monitoring the lawfulness of the data	monitoring the lawfulness of the data	purposes of checking the
processing and data integrity and	processing and data integrity and	processing and data integrity and	admissibility of the request,
security, and self-monitoring.	security, and self-monitoring.	security, and self-monitoring.	monitoring the lawfulness of the data
			processing and data integrity and
			security, and self-monitoring.
2. The log or documentation	2. The log or documentation	2. The log or documentation	Provisionally agreed:
shall show:	shall show, <i>in all cases</i> :	shall show:	2. The log or documentation
			shall show, <i>in all cases</i> :
(a) the exact purpose of the	(a) the exact purpose of the	(a) the exact purpose of the	
request for access to EES data,	request for access to EES data,	request for access to EES data,	
including the terrorist offence or	including the terrorist offence or	including the terrorist offence or	
other serious criminal offence	other serious criminal offence	other serious criminal offence	
concerned and, for Europol, the exact	concerned and, for Europol, the exact	concerned and, for Europol, the exact	
purpose of the request for access;	purpose of the request for access;	purpose of the request for access;	
(b) the reasonable grounds given	(b) the reasonable grounds given	(b) the reasonable grounds given	
for not making comparisons with	for not making comparisons with	for not making comparisons with	
other Member States under Decision	other Member States under Decision	other Member States under Decision	
2008/615/JHA, in accordance with	2008/615/JHA, in accordance with	2008/615/JHA, in accordance with	
Article 29(2)(b) of this Regulation;	Article 29(2)(b) of this Regulation;	Article 29(2)(b) of this Regulation;	
(c) the national file reference;	(c) the national file reference;	(c) the national file reference;	

(d) the date and exact time of the request for access by the National Access Point to the Central System;	(d) the date and exact time of the request for access by the National Access Point to the Central System;	(d) the date and exact time of the request for access by the [] <u>Central</u> Access Point to the Central System;	 <i>Provisionally agreed:</i> (d) the date and exact time of the request for access by the <u>Central</u> Access Point to the Central System;
	(da) the name of the authority having requested access for comparison and the responsible person who made the request and processed the data;		Compromise text provisionally agreed (second part of EP amendment covered by point (h)): (da) the name of the authority having requested access for comparison
(f) where applicable, the use of the urgent procedure referred to in Article 28(2) and the decision taken with regard to the ex-post verification;	(f) where applicable, the use of the urgent procedure referred to in Article 28(2) and the decision taken with regard to the ex-post verification;	(e) where applicable, the use of the urgent procedure referred to in Article 28(2) and the decision taken with regard to the ex-post verification;	Identical text:(e)where applicable, the use ofthe urgent procedure referred to inArticle 28(2) and the decision takenwith regard to the ex-postverification;
(g) the data used for comparison;	(g) the data used for comparison;	(\underline{f}) the data used for comparison;	Identical text: (\underline{f}) the data used for comparison;
 (h) in accordance with national rules or with Decision 2009/371/JHA, the identifying mark of the official who carried out the search and of the official who ordered the search or supply. 	(h) in accordance with national rules or with Decision 2009/371/JHA <i>Regulation (EU) 2016/794</i> , the identifying mark of the official who carried out the search and of the official who ordered the search or supply.	(g) in accordance with national rules or with Decision 2009/371/JHA, the identifying mark of the official who carried out the search and of the official who ordered the search or supply.	 Provisionally agreed: (g) in accordance with national rules or with Regulation (EU) 2016/794, the identifying mark of the official who carried out the search and of the official who ordered the search or supply.
3. Logs and documentation shall be used only for monitoring the lawfulness of data processing and for ensuring data integrity and security. Only logs containing non-personal data may be used for the monitoring	3. Logs and documentation shall be used only for monitoring the lawfulness of data processing and for ensuring data integrity and security. Only logs containing non-personal <i>which do not contain personal</i> data	3. Logs and documentation shall be used only for monitoring the lawfulness of data processing and for ensuring data integrity and security. Only logs containing non-personal data may be used for the monitoring	 <i>Provisionally agreed</i>: 3. Logs and documentation shall be used only for monitoring the lawfulness of data processing and for ensuring data integrity and security. Only logs <i>which do not contain</i>

and evaluation referred to in Article 64. The competent national supervisory authorities responsible for checking the admissibility of the request and monitoring the lawfulness of the data processing and data integrity and security shall have access to those logs at their request for the purpose of fulfilling their duties.	may be used for the monitoring and evaluation referred to in Article 64. The competent national supervisory authorities responsible for checking the admissibility of the request and monitoring the lawfulness of the data processing and data integrity and security shall have access to those these logs at their request for the purpose of fulfilling their duties.	and evaluation referred to in Article 64. The competent national supervisory authorities responsible for checking the admissibility of the request and monitoring the lawfulness of the data processing and data integrity and security shall have access to those logs at their request for the purpose of fulfilling their duties.	<i>personal</i> data may be used for the monitoring and evaluation referred to in Article 64. The supervisory authority established in accordance with Article 41(1) of <i>Directive (EU) 2016/680</i> which is responsible for checking the admissibility of the request and monitoring the lawfulness of the data processing and data integrity and security shall have access to <i>these</i> logs at their request for the purpose of fulfilling their duties.
CHAPTER VIII Amendments to other Union instruments	CHAPTER-VIII Amendments to other Union instruments	CHAPTER VIII Amendments to other Union instruments	
Article 54 Amendment to the Convention implementing the Schengen Agreement	Article 54 Amendment to the Convention implementing the Schengen Agreement	Article 54 Amendment to the Convention implementing the Schengen Agreement	
In Article 20, of the Convention implementing the Schengen Agreement, paragraph 2 is replaced by the following:	In Article 20, of the Convention implementing the Schengen Agreement, paragraph 2 is replaced by the following:	In Article 20, of the Convention implementing the Schengen Agreement, paragraph 2 is replaced by the following:	Provisionally agreed: In Article 20, of the Convention implementing the Schengen Agreement, paragraph 2 is replaced by the following:
⁶ 2. Paragraph 1 shall not affect each Contracting Party's right to extend beyond 90 days an alien's stay in its territory in exceptional circumstances'.	⁶ 2. Paragraph 1 shall not affect each Contracting Party's right to extend beyond 90 days an alien's stay in its territory in exceptional circumstances'.	 "2. Paragraph 1 shall not affect each Contracting Party's right to extend beyond 90 days <u>in any 180-day</u> <u>period</u> an alien's stay in its territory <u>a)</u> in exceptional circumstances 	 "2. Paragraph 1 shall not affect each Contracting Party's right to extend beyond 90 days <u>in any 180-day</u> <u>period</u> an alien's stay in its territory <u>a)</u> in exceptional circumstances
		<u>or</u> in exceptional circumstances	<u>or</u> <u>ni exceptional encumstances</u>

b) in accordance with a bilateral	b) in accordance with a bilateral
<u> </u>	
agreement concluded before the entry	agreement concluded before the
into force of this Convention and	entry into force of this Convention
notified to the Commission in	and notified to the Commission in
accordance with the last	accordance with the last
subparagraph of this paragraph.	subparagraph of this paragraph.
<u>2a.</u> <u>The stay of an alien in the</u>	<u>2a.</u> <u>The stay of an alien in the</u>
territory of a Contracting Party may	territory of a Contracting Party may
be extended in accordance with a	be extended in accordance with a
bilateral agreement pursuant to	bilateral agreement pursuant to
paragraph 2(b), upon request of the	paragraph 2(b), upon request of the
alien and lodged with the competent	alien and lodged with the competent
authorities of that Contracting Party	authorities of that Contracting Party
upon entry or during the stay of the	upon entry or during the stay of the
alien at the latest on the last working	alien at the latest on the last working
day of his/her 90-day stay in any	day of his/her 90-day stay in any
180-day period.	180-day period.
In case the alien has not lodged a	In case the alien has not lodged a
request during the 90-day stay in any	request during the 90-day stay in any
180-day period, his/her stay may be	180-day period, his/her stay may be
extended based on a bilateral	extended based on a bilateral
agreement concluded by a	agreement concluded by a
Contracting Party and his/her stay	Contracting Party and his/her stay
beyond the 90-day stay in any 180-	beyond the 90-day stay in any 180-
day period preceding that extension	day period preceding that extension
may be presumed lawful by the	may be presumed lawful by the
competent authorities of that	competent authorities of that
Contracting Party provided that that	Contracting Party provided that that
alien presents credible evidence	alien presents credible evidence
which proves that during that time	which proves that during that time
he/she has stayed only at the territory	he/she has stayed only at the territory
of that Contracting party.	of that Contracting party.

I	
<u>2b.</u> In case where the stay is	<u>2b.</u> In case where the stay is
extended pursuant to paragraph 2, the	extended pursuant to paragraph 2, the
competent authorities of that	competent authorities of that
Contracting Party shall enter the data	Contracting Party shall enter the data
related to the extension in the latest	related to the extension in the latest
relevant entry/exit record in	relevant entry/exit record in
accordance with Article 17 of the	accordance with Article 17 of the
Regulation establishing the	Regulation establishing the
Entry/Exit system.	Entry/Exit system.
2c. The alien shall be authorised	2c. The alien shall be authorised
to stay only in the territory of that	to stay only in the territory of that
Contracting Party and exit at the	Contracting Party and exit at the
external borders of that Contracting	external borders of that Contracting
party.	party.
The competent authority that has	The competent authority that has
extended the stay shall inform the	extended the stay shall inform the
alien concerned that the extension of	alien concerned that the extension of
stay is authorised only in the territory	stay is authorised only in the territory
of that Contracting party and he/she	of that Contracting party and he/she
shall exit at the external border of	shall exit at the external border of
that Contracting party.	that Contracting party.
2d. The Contracting Parties shall	2d. The Contracting Parties shall
notify to the Commission within	notify to the Commission within
three months after entry into force of	three months after entry into force of
the Regulation establishing the	the Regulation establishing the
Entry/Exit System the text of their	Entry/Exit System the text of their
relevant applicable bilateral	relevant applicable bilateral
agreements pursuant to paragraph	agreements pursuant to paragraph
2(b). If the Contracting party ceases	2(b). If the Contracting party ceases
to apply any of those bilateral	to apply any of those bilateral
agreements it shall notify the	agreements, or if changes are made
	0

		<u>Commission thereof. The</u> <u>Commission shall publish the</u> <u>information in the Official Journal of</u> <u>the European Union."</u>	to those bilateral agreements, it shall notify the Commission thereof. The Commission shall publish the information about the bilateral agreements, including at least the
			Member States and third countries concerned, the rights derived for third country nationals from those agreements, as well as any changes thereto in the Official Journal of the European Union ."
Article 55 Amendments to Regulation (EC) 767/2008 concerning the Visa Information System	Article 55 Amendments to Regulation (EC) 767/2008 concerning the Visa Information System	Article 55 Amendments to Regulation (EC) 767/2008 concerning the Visa Information System	
Regulation (EU) No 767/2008 is amended as follows:	Regulation (EU) No 767/2008 is amended as follows:	Regulation (EU) No 767/2008 is amended as follows:(0)In Article 10(1) the following indents are [] added:	Provisionally agreed: (0) In Article 10(1) the following indents are added:
		(dd) if applicable, the information indicating that the visa has been issued with limited territorial validity, on the basis of Article 25(1)(b) of the Regulation (EC) 810/2009.	Provisionally agreed: (dd) if applicable, the information indicating that the visa has been issued with limited territorial validity, on the basis of Article 25(1)(b) of the Regulation (EC) 810/2009.
		(1) if applicable, the status of the person indicating that the third country national is member of the family of a Union citizen to whom the Directive 2004/38/EC applies or of a third country national enjoying	Provisionally agreed: (1) if applicable, the status of the person indicating that the third country national is member of the family of a Union citizen to whom the Directive 2004/38/EC applies or

		the right of free movement under	of a third country national enjoying
		Union law.	the right of free movement under
			Union law.
(1) Ly $A_{1}(z) = 12 + 12 + 12 + 12 + 12 + 12 + 12 + 12$	Le Astisle 12 the fellowing model	(1) In Anti-1, 12 the full series	<u>Union law.</u>
(1) In Article 13 the following	In Article 13 the following paragraph	(1) In Article 13 the following	
paragraph is added:	is added:	paragraph is added:	
"3. Where a decision has been taken	"3. Where a decision has been taken /	"3. Where a decision has been taken	Provisionally agreed
to annul or to revoke an issued visa,	to annul or to revoke an issued visa,/	to annul or to revoke an issued visa,	"3. Where a decision has been taken
the visa authority which has taken	the visa authority which has taken $/$	the visa authority which has taken the	to annul or to revoke an issued visa,
the decision shall immediately	the decision shall immediately /	decision shall immediately retrieve	the visa authority which has taken
retrieve and export from the VIS into	retrieve and export from the VIS into	and export automatically from the	the decision shall immediately
the Entry/Exit System (EES) the data	the Entry/Exit System (EES) the data	VIS into the Entry/Exit System	retrieve and export from the VIS into
listed under paragraph 1 of Article 17	listed under paragraph 1 of Article 17	(EES) the data listed under paragraph	the Entry/Exit System (EES) the data
of [Regulation N° XXX of the	of [Regulation N° XXX of the	1 of Article 17 of [Regulation N°	listed under paragraph 1 of Article 17
European Parliament and the Council	European Parliament and the Council	XXX of the European Parliament and	of [Regulation N° XXX of the
establishing an Entry/Exit System	establishing an Entry/Exit System	the Council establishing an	European Parliament and the Council
(EES) to register entry and exit data	(EES) to register entry and exit data	Entry/Exit System (EES) to register	establishing an Entry/Exit System
of third country nationals crossing	of third country nationals crossing	entry and exit data and refusal of	(EES) to register entry and exit data
the external borders of the Member	the external borders of the Member	entry data of third country nationals	and refusal of entry data of third
States of the European Union and	States of the European Union and	crossing the external borders of the	country nationals crossing the
determining the conditions for access	determining the conditions for access	Member States of the European	external borders of the Member
to the EES for law enforcement	to the EES for law enforcement	Union and determining the	States of the European Union and
purposes] *."	purposes] *."	conditions for access to the EES for	determining the conditions for access
		law enforcement purposes] *."	to the EES for law enforcement
* Regulation No XXX of the	* Regulation No XXX of the		purposes] *."
European Parliament and the Council	European Parliament and the Council		
establishing an Entry/Exit System	establishing an Entry/Exit System	* Regulation No XXX of the	
(EES) to register entry and exit data	(EES) to register entry and exit data	European Parliament and the Council	* Regulation No XXX of the
of third country nationals crossing	of third country nationals crossing	establishing an Entry/Exit System	European Parliament and the Council
the external borders of the Member	the external borders of the Member	(EES) to register entry and exit data	establishing an Entry/Exit System
States of the European Union and	States of the European Union and	and refusal of entry data of third	(EES) to register entry and exit data
determining the conditions for access	determining the conditions for access	country nationals crossing the	and refusal of entry data of third
to the EES for law enforcement	to the EES for law enforcement	external borders of the Member	country nationals crossing the
purposes (OJ) [full title + OJ	/purposes (OJ) [full title + OJ		external borders of the Member

reference]	reference]	States of the European Union and	States of the European Union and
		determining the conditions for access	determining the conditions for access
		to the EES for law enforcement	to the EES for law enforcement
		purposes (OJ) [full title + OJ	purposes (OJ) [full title + OJ
		reference	reference
]]
(2) In Article 14 the following	(2) In Article 14 the following	(2) In Article 14 the following	
paragraph is added:	paragraph is added:	paragraph is added:	
"3. The visa authority which has	"3. The visa authority which has	"3. The visa authority which has	
taken a decision to extend the period	taken a decision to extend the period	taken a decision to extend the period	
of validity and/or the duration of stay	of validity and/or the duration of stay	of validity and/or the duration of stay	
of an issued visa shall immediately	of an issued visa shall immediately	of an issued visa shall immediately	
retrieve and export from the VIS into	retrieve and export from the VIS into	retrieve and export from the VIS into	
the EES the data listed under	the EES the data listed under	the EES the data listed under	
paragraph 1 of Article 17 of	paragraph 1 of Article 17 of	paragraph 1 of Article 17 of	
[Regulation establishing an	[Regulation establishing an	[Regulation establishing an	
Entry/Exit System (EES)]."	Entry/Exit System (EES)]."	Entry/Exit System (EES)]."	
(3) Article 15 is amended as	(3) Article 15 is amended as	(3) Article 15 is amended as	
follows:	follows:	follows:	
(a) points (b) and (c) of	(a) points (b) and (c) of	(a) points (b) and (c) of	
paragraph 2 are replaced by the	paragraph 2 are replaced by the	paragraph 2 are replaced by the	
following:	following:	following:	
"(b) surname (family name), first	"(b) surname (family name), first	"(b) surname (family name), first	
name(s) (given names); date of birth,	name(s) (given names); date of birth,	name(s) (given names); date of birth,	
nationality; sex;	nationality; sex;	nationality; sex;	
(c) type and number of the travel	(c) type and number of the travel	(c) type and number of the travel	
document; three letter code of the	document; three letter code of the	document; three letter code of the	
issuing country of the travel	issuing country of the travel	issuing country of the travel	
document, and the date of expiry of	document, and the date of expiry of	document, and the date of expiry of	
the validity of the travel document;"	the validity of the travel document;"	the validity of the travel document;"	

(b) the following paragraphs are	(b) the following paragraphs are	(b) the following paragraphs are	
added:	added:	added:	
"4. For the purposes of carrying out	"4. For the purposes of carrying out	"4. For the purposes of carrying out	
the consultation of the EES for	the consultation of the EES for	the consultation of the EES for	
examining and deciding on visa	examining and deciding on visa	examining and deciding on visa	
applications in accordance with	applications in accordance with	applications in accordance with	
Article 22 of [Regulation	Article 22 of [Regulation	Article 22 of [Regulation establishing	
establishing an Entry/Exit System	establishing an Entry/Exit System	an Entry/Exit System (EES)], the	
(EES)], the competent visa authority	(EES)], the competent visa authority	competent visa authority shall be	
shall be given access to search the	shall be given access to search the	given access to search the EES	
EES directly from the VIS with one	EES directly from the VIS with one	directly from the VIS with one or	
or several of the data referred to in	or several of the data referred to in	several of the data referred to in that	
that Article.	that Article.	Article.	
5. In circumstances where the search	5. In circumstances where the search	5. In circumstances where the search	
with the data referred to in paragraph 2 indicates that data on the third	with the data referred to in paragraph 2 indicates that data on the third	with the data referred to in paragraph 2 indicates that data on the third	
country national are not recorded in the VIS or where there are doubts as	country national are not recorded in	country national are not recorded in the VIS or where there are doubts as	
	the VIS or where there are doubts as		
to the identity of the third country	to the identity of the third country	to the identity of the third country	
national, the competent visa authority	national, the competent visa authority	national, the competent visa authority	
shall have access to data for	shall have access to data for	shall have access to data for	
identification in accordance with	identification in accordance with	identification in accordance with	
Article 20."	Article 20."	Article 20."	
(4) In Chapter III a new Article	(4) In Chapter III a new Article	(4) In Chapter III a new Article	
17a is added:	17a is added:	17a is added:	
"Article 17a	"Article 17a	"Article 17a	
Interoperability with the EES	Interoperability with the EES	Interoperability with the EES	
1. From the start of operations of the	1. From the start of operations	1. From the start of operations of the	Provisionally agreed
EES referred to in Article 60(1) of	of the EES referred to in Article	EES referred to in Article 60(1) of	1. From the start of operations of the
[Regulation establishing an	60(1) of [Regulation establishing an	[Regulation establishing an	EES referred to in Article 60(1) of
Entry/Exit System (EES)],	Entry/Exit System (EES)],	Entry/Exit System (EES)],	[Regulation establishing an

interoperability between the EES and the VIS is established to ensure more efficiency and rapidity of border checks. To this effect eu-LISA shall establish a Secure Communication Channel between the EES Central System and the VIS Central System to enable interoperability between the EES and the VIS. Direct consultation between the systems shall only be possible if both this Regulation and Regulation (EC) No 767/2008 ³⁰ provide for it.	interoperability between the EES and the VIS is established to ensure more efficiency and rapidity of border checks <i>with due respect for the</i> <i>purpose limitation principle</i> . To this effect eu-LISA shall establish a Secure Communication Channel between the EES Central System and the VIS Central System to enable interoperability between the EES and the VIS. Direct consultation between the systems shall only be possible if both this Regulation and Regulation (EC) No 767/2008 provide for it.	interoperability between the EES and the VIS is established to ensure more efficiency and rapidity of border checks. To this effect eu-LISA shall establish a Secure Communication Channel between the EES Central System and the VIS Central System to enable interoperability between the EES and the VIS. Direct consultation between the systems shall only be possible if both this Regulation and [Regulation <u>establishing an</u> <u>Entry/Exit System (EES)]</u> [] provide for it.	Entry/Exit System (EES)], interoperability between the EES and the VIS is established to ensure more efficiency and rapidity of border checks. To this effect eu-LISA shall establish a Secure Communication Channel between the EES Central System and the VIS Central System to enable interoperability between the EES and the VIS. Direct consultation between the systems shall only be possible if both this Regulation and <i>[Regulation establishing an Entry/Exit System</i> <i>(EES) []</i> provide for it. <i>Retrieval,</i> <i>exportation and importation of visa</i> <i>related data directly from the VIS</i> <i>into the EES shall be an automated</i> <i>process once the operation in</i> <i>question is launched by the</i> <i>authority concerned.</i> <i>Recital on purpose limitation to be</i> <i>added</i>
2. The interoperability requirement shall enable the visa authorities using the VIS to consult the EES from the VIS in order to:	2. The interoperability requirement shall enable the visa authorities using the VIS to consult the EES from the VIS in order to:	2. The interoperability requirement shall enable the visa authorities using the VIS to consult the EES from the VIS in order to:	Compromise text provisionally agreed: 2. The interoperability shall enable the visa authorities using the VIS to consult the EES from the VIS in order to:

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(a) consult the EES when examining	(a) consult the EES when examining	(a) consult the EES when examining	
C C		Č,	
and deciding on visa applications as	and deciding on visa applications as	and deciding on visa applications as	
referred to in Article 22 of	referred to in Article 22 of	referred to in Article 22 of	
[Regulation establishing an	[Regulation establishing an	[Regulation establishing an	
Entry/Exit System (EES)] and	Entry/Exit System (EES)] and	Entry/Exit System (EES)] and Article	
Article 15(4) of this Regulation;	Article 15(4) of this Regulation;	15(4) of this Regulation;	
(b) to retrieve and export the visa	(b) to retrieve and export the visa	(b) to retrieve and export	Provisionally agreed
related data directly from the VIS	related data directly from the VIS	automatically the visa related data	(b) to retrieve and export the visa
into the EES in case a visa is	into the EES in case a visa is	directly from the VIS into the EES in	related data directly from the VIS
annulled, revoked or extended in	annulled, revoked or extended in	case a visa is annulled, revoked or	into the EES in case a visa is
accordance with Article 17 of	accordance with Article 17 of	extended in accordance with Article	annulled, revoked or extended in
[Regulation establishing an	[Regulation establishing an	17 of [Regulation establishing an	accordance with Article 17 of
Entry/Exit System (EES)] and	Entry/Exit System (EES)] and	Entry/Exit System (EES)] and	[Regulation establishing an
Articles 13 and 14 of this Regulation;	Articles 13 and 14 of this Regulation;	Articles 13 and 14 of this Regulation;	Entry/Exit System (EES)] and
			Articles 13 and 14 of this Regulation;
3. The interoperability requirement	3. The interoperability requirement	3. The interoperability requirement	Provisionally agreed
shall enable the border authorities	shall enable the border authorities	shall enable the <u>competent</u> []	3. The interoperability shall enable
using the EES to consult the VIS	using the EES to consult the VIS	authorities for carrying out checks at	the border authorities using the EES
from the EES in order to:	from the EES in order to:	borders at which the EES is operated	to consult the VIS from the EES in
		in accordance with Regulation (EU)	order to:
		XXX (EES) [] to consult the VIS	
		from the EES in order to:	
(a) retrieve and import the visa	(a) retrieve and import the visa	(a) retrieve and import <u>automatically</u>	
related data directly from the VIS to	related data directly from the VIS to	the visa related data directly from the	Provisionally agreed:
the EES in order to create or update	the EES in order to create or update	VIS to the EES in order to create or	(a) retrieve and import the visa
the individual file of a visa holder in	the individual file of a visa holder in	update the <u>entry/exit record</u> or refusal	related data directly from the VIS to
the EES in accordance with Articles	the EES in accordance with Articles	of entry record [] of a visa holder	the EES in order to create or update
13, 14 and 16 of [Regulation	13, 14 and 16 of [Regulation	in the EES in accordance with	[the individual file or] the entry/exit
establishing an Entry/Exit System	establishing an Entry/Exit System	Articles 13, 14 and 16 [Regulation	record or refusal of entry record of a
(EES)] and Article 18a of this	(EES) and Article 18a of this	establishing an Entry/Exit System	visa holder in the EES in accordance
Regulation;	Regulation;	(EES)] and Article 18a of this	with Articles 13, 14 and 16
Regulation,	Acgulation,	(LLS)] and Afficie Toa of this	with Afficies 15, 14 allu 10

		Regulation;	[Regulation establishing an
			Entry/Exit System (EES)] and
			Article 18a of this Regulation;
(b) retrieve and import the visa	(b) retrieve and import the visa	(b) retrieve and import <u>automatically</u>	Provisionally agreed:
related data directly from the VIS in	related data directly from the VIS in	the visa related data directly from the	(b) retrieve and import the visa
case a visa is annulled, revoked or	case a visa is annulled, revoked or	VIS in case a visa is annulled,	related data directly from the VIS in
extended in accordance with Article	extended in accordance with Article	revoked or extended in accordance	case a visa is annulled, revoked or
17 of [Regulation establishing an	17 of [Regulation establishing an	with Article 17 of [Regulation	extended in accordance with Article
Entry/Exit System (EES)] and	Entry/Exit System (EES)] and	establishing an Entry/Exit System	17 of [Regulation establishing an
Articles 13 and 14 of this Regulation;	Articles 13 and 14 of this Regulation;	(EES)] and Articles 13 and 14 of this	Entry/Exit System (EES)] and
		Regulation;	Articles 13 and 14 of this Regulation;
(c) verify at the external borders the	(c) verify at the external borders the	(c) verify [] the authenticity and	Provisionally agreed:
authenticity and validity of the visa	authenticity and validity of the xisa	validity of the visa and/or whether	(c) verify the authenticity and
and/or whether the conditions for	and/or whether the conditions for	the conditions for entry to the	validity of the visa and/or whether
entry to the territory of the Member	entry to the territory of the Member	territory of the Member States in	the conditions for entry to the
States in accordance with Article 6 of	States in accordance with Article 6 of	accordance with Article 6 of	territory of the Member States in
Regulation (EU) 2016/399 are	Regulation (EU) 2016/399 are	Regulation (EU) 2016/399 are	accordance with Article 6 of
fulfilled as referred to in Article	fulfilled as referred to in Article	fulfilled as referred to in Article	Regulation (EU) 2016/399 are
18(2) of this Regulation;	18(2) of this Regulation;	18(2) of this Regulation;	fulfilled as referred to in Article
			18(2) of this Regulation;
(d) check at the external borders	(d) check at the external borders	(d) check [] whether third country	Provisionally agreed:
whether third country nationals	whether third country nationals	nationals exempt from the visa	(d) check whether third country
exempt from the visa obligation who	exempt from the visa obligation who	obligation who do not have an	nationals exempt from the visa
do not have an individual file	do not have an individual file	individual file recorded in the EES	obligation who do not have an
recorded in the EES were previously	recorded in the EES were previously	were previously registered in the VIS	individual file recorded in the EES
registered in the VIS in accordance	registered in the VIS in accordance	in accordance with Article 21 of	were previously registered in the VIS
with Article 21 of [Regulation	with Article 21 of [Regulation	[Regulation establishing an	in accordance with Article 21 of
establishing an Entry/Exit System	establishing an Entry/Exit System	Entry/Exit System (EES)] and Article	[Regulation establishing an
(EES)] and Article 19a of this	(EE8)] and Article 19a of this	19a of this Regulation;	Entry/Exit System (EES)] and
Regulation;	Regulation;		Article 19a of this Regulation;
(e) where the identity of a visa holder	(e) where the identity of a visa holder	(e) where the identity of a visa holder	
cannot be verified against the EES,	cannot be verified against the EES,	cannot be verified against the EES,	Provisionally agreed:
verify at the external borders the	verify at the external borders the	verify [] the identity of a visa	(e) where the identity of a visa

identity of a visa holder with fingerprints against the VIS in accordance with Articles 21(2) and 21(4) of [Regulation establishing an Entry/Exit System (EES)] and 18(6) of this Regulation.	identity of a visa holder with fingerprints against the VIS in accordance with Articles 21(2) and 21(4) of [Regulation establishing an Entry/Exit System (EES)] and 18(6) of this Regulation.	holder with fingerprints against the VIS in accordance with Articles 21(2) and 21(4) of [Regulation establishing an Entry/Exit System (EES)] and 18(6) of this Regulation.	holder is cannot be verified using fingerprints against the EES, verify the identity of a visa holder with fingerprints against the VIS in accordance with Articles 21(2) and 21(4) of [Regulation establishing an Entry/Exit System (EES)] and 18(6) of this Regulation.
			Provisionally agreed: 3a For the operation of the EES webservice referred to in Article 12 of [Regulation establishing an Entry/Exit System (EES)], the VIS shall on a daily basis update the separate read-only database referred to in Article 12(4) of [Regulation establishing an Entry/Exit System (EES)] via a one-way extraction of the minimum necessary subset of VIS data.
4. In accordance with Article 33 of the [Regulation establishing an Entry/Exit System (EES)], the Commission shall adopt the measures necessary for the establishment and the high level design of the interoperability in accordance with Article 34 of the [Regulation establishing an	4. In accordance with Article 33 of the [Regulation establishing an Entry/Exit System (EES)], the Commission shall adopt the measures necessary for the establishment and the high level design of the interoperability in accordance with Article 34 of the [Regulation establishing an	4. In accordance with Article 33 of the [Regulation establishing an Entry/Exit System (EES)], the Commission shall adopt the measures necessary for the establishment and the high level design of the interoperability in accordance with Article 34 of the [Regulation establishing an Entry/Exit System	Provisionally agreed: 4. In accordance with Article 33 of the [Regulation establishing an Entry/Exit System (EES)], the Commission shall adopt the measures necessary for the establishment and the high level design of the interoperability in accordance with Article 34 of the

Entry/Exit System (EES)]. In order to establish the interoperability with the EES, the Management Authority shall develop the required evolutions and/or adaptations of the Central Visa Information System, the National Interface in each Member State, and the communication	Entry/Exit System (EES)]. In order to establish the interoperability with the EES, the Management Authority eu- <i>LISA</i> shall develop the required evolutions and/or adaptations of the Central Visa Information System, the National Interface in each Member State, and the communication	(EES)]. In order to establish the interoperability with the EES, the Management Authority shall develop the required evolutions and/or adaptations of the Central Visa Information System, the National Interface in each Member State, and the communication infrastructure	[Regulation establishing an Entry/Exit System (EES)]. In order to establish the interoperability with the EES, the Management Authority shall develop the required evolutions and/or adaptations of the Central Visa Information System, the National Interface in each Member
infrastructure between the Central Visa Information System and the National Interfaces. The national infrastructures shall be adapted and/or developed by the Member States.	infrastructure between the Central Visa Information System and the National Interfaces. The national infrastructures shall be adapted and/or developed by the Member States.	between the Central Visa Information System and the National Interfaces. The national infrastructures shall be adapted and/or developed by the Member States.	State, and the communication infrastructure between the Central Visa Information System and the National Interfaces. The national infrastructures shall be adapted and/or developed by the Member States.
(5) Article 18 is replaced by the following:	(5) Article 18 is replaced by the following:	(5) Article 18 is replaced by the following:	
"Article 18	"Article 18	"Article 18	Provisionally agreed:
Access to data for verification at	Access to data for verification at	Access to data for verification at []	"Article 18
external border crossing points	external border crossing points	borders at which the EES is operated	Access to data for verification at borders at which the EES is operated
1. For the sole purpose of verifying the identity of the visa holders, the authenticity, temporal and territorial validity and status of the visa and/or whether the conditions for entry to the territory of the Member States in accordance with Article 6 of Regulation (EU) 2016/399 are fulfilled, the competent authorities for carrying out checks at external border crossing points in accordance with Regulation (EU) 2016/399 shall	1. For the sole purpose of verifying the identity of the visa holders, the authenticity, temporal and territorial validity and status of the visa and/or whether the conditions for entry to the territory of the Member States in accordance with Article 6 of Regulation (EU) 2016/399 are fulfilled, the competent authorities for carrying out checks at external border crossing points in accordance with Regulation (EU) 2016/399 shall	1. For the sole purpose of verifying the identity of the visa holders, the authenticity, temporal and territorial validity and status of the visa and/or whether the conditions for entry to the territory of the Member States in accordance with Article 6 of Regulation (EU) 2016/399 are fulfilled, the competent authorities for carrying out checks at [] <u>borders at which the EES is operated</u> shall have access to search using the	Provisionally agreed: 1. For the sole purpose of verifying the identity of the visa holders, the authenticity, temporal and territorial validity and status of the visa and/or whether the conditions for entry to the territory of the Member States in accordance with Article 6 of Regulation (EU) 2016/399 are fulfilled, the competent authorities for carrying out checks at borders at

have access to search using the following data:have access to search using the following data:following data	access to search using the following
name(s) (given names); date of birth, nationality; sex; type and number of the travel document; three letter code of the issuing country of the travel document, and the date of expiry of the validity of the travel document;name(s) (given names); date of birth, nationality; sex; type and number of the travel document; three letter code of the issuing country of the travel document, and the date of expiry of the validity of the travel document;name(s) (given name(s) (given nationality; sex; type and number of the travel document; three letter code of the issuing country of the travel document, and the date of expiry of the validity of the travel document;name(s) (given nationality; sex the travel document of the travel document; three letter code of the issuing country of the travel document, and the date of expiry of the validity of the travel document;name(s) (given nationality; sex the travel document, intree letter code of the issuing country of the travel document, and the date of expiry of the validity of the travel document;name(s) (given nationality; sex the travel document, intree letter code of the issuing country of the travel document, and the date of expiry of the validity of the travel document;name(s) (given nationality; sex the travel document, and the date of expiry of the validity of the travel document, and the date of expiry of the validity of the travel document, and the date of expiry of the validity of the travel document, and the date of expiry of the validity of the travel document;name(s) (given nationality; sex the travel document, and the date of expiry of the validity of the travel document, and the date of expiry of the validity of the travel document in the EES pursuant to I annch a search in the VIS directly	stem (EES)], theArticle 21(2) or Article 21(4) of] authority for carrying[Regulation establishing anborders at which theEntry/Exit System (EES)], theed may launch a searchcompetent border authority shalllaunch a searchlaunch a search in the VIS directlyreferred to in point (a)from the EES using the data referred

			if specific circumstances so require, in particular, where the specific situation of a third country national makes more appropiate a search using the data referred to in point (b) of paragraph 1, or in case of a temporary technical impossibility to consult the EES data or of a failure of the EES.
3. If the search with the data listed in paragraph 1 indicates that the VIS stores data on one or more issued or extended visa(s)), which are under their validity period and are territorially valid for the border crossing, the competent border control authority shall be given access to consult the following data of the concerned application file as well as of linked application file(s) pursuant to Article 8(4), solely for the purposes referred to in paragraph 1:	3. If the search with the data listed in paragraph 1 indicates that <i>data on the visa holder are recorded</i> <i>in</i> the VIS, stores data on one or more issued or extended visa(s)), which are under their validity period and are territorially valid for the border crossing, the competent border control authority shall be given access to consult the following data of the concerned application file as well as of linked application file(s) pursuant to Article 8(4), solely for the purposes referred to in paragraph 1:	3. If the search with the data listed in paragraph 1 indicates that the VIS stores data on one or more issued or extended visa(s)), which are under their validity period and are <u>under</u> <u>their territorial</u> [] validity for the border crossing, the competent [] authority for carrying out checks at <u>borders at which the EES is operated</u> shall be given access to consult the following data of the concerned application file as well as of linked application file(s) pursuant to Article 8(4), solely for the purposes referred to in paragraph 1:	<i>EP has withdrawn its amendment.</i> <i>Provisionally agreed</i> : 3. If the search with the data listed in paragraph 1 indicates that the VIS stores data on one or more issued or extended visa(s)), which are under their validity period and are <u>under</u> their territorial validity for the border crossing, the competent border authority <u>for carrying out checks at</u> <u>borders at which the EES is operated</u> shall be given access to consult the following data of the concerned application file as well as of linked application file(s) pursuant to Article 8(4), solely for the purposes referred to in paragraph 1:
(a) the status information and the data taken from the application form, referred to in Article 9(2) and (4);	(a) the status information and the data taken from the application form, referred to in Article 9(2) and (4);	(a) the status information and the data taken from the application form, referred to in Article 9(2) and (4);	
(b) photographs;(c) the data entered in respect of the visa(s) issued, annulled, revoked or	 (b) photographs; (c) the data entered in respect of the visa(s) issued, annulled, revoked or 	(b) photographs;(c) the data entered in respect of the visa(s) issued, annulled, revoked or	

whose validity is extended referred to	whose validity is extended referred to	whose validity is extended referred to	
in Articles 10, 13 and 14.	in Articles 10, 13 and 14.	in Articles 10, 13 and 14.	
In addition, for those visa holders for	In addition, for those visa holders for	In addition, for those visa holders for	Provisionally agreed:
whom certain data are not required to	whom certain data are not required to	whom certain data are not required to	In addition, for those visa holders for
be provided for legal reasons or	be provided for legal reasons or	be provided for legal reasons or	whom certain data are not required to
factually cannot be provided, the	factually cannot be provided, the	factually cannot be provided, the	be provided for legal reasons or
competent border control authority	competent border control authority	competent [] authority for carrying	factually cannot be provided, the
shall receive a notification related to	shall receive a notification related to	out checks at borders at which the	competent border authority for
the specific data field(s) concerned	the specific data field(s) concerned	EES is operated shall receive a	carrying out checks at borders at
which shall be marked as 'not	which shall be marked as 'not	notification related to the specific	which the EES is operated shall
applicable'.	applicable'.	data field(s) concerned which shall	receive a notification related to the
		be marked as 'not applicable'.	specific data field(s) concerned
			which shall be marked as 'not
			applicable'.
4. If the search with the data listed in	deleted	4. If the search with the data listed in	
paragraph 1 indicates that data on the		paragraph 1 indicates that data on the	
person are recorded in the VIS but		person are recorded in the VIS but	
that the visa(s) recorded are not		that the visa(s) recorded are not	
valid, the competent border authority		valid, the competent [] authority	
shall be given access to consult the		for carrying out checks at borders at	
data of the application file(s) as well		which the EES is operated shall be	
as of the linked application file(s)		given access to consult the <u>following</u>	
pursuant to Article 8(4), solely for		data of the application file(s) as well	
the purposes referred to in		as of the linked application file(s)	
paragraph 1:		pursuant to Article 8(4), solely for	
		the purposes referred to in	
		paragraph 1:	
(a) the status information and the	deleted	(a) the status information and the	
data taken from the application form,		data taken from the application form,	
referred to in Article 9(2) and (4);		referred to in Article 9(2) and (4);	
(b) photographs;	deleted	(b) photographs;	
(c) the data entered in respect of the	deleted	(c) the data entered in respect of the	
visa(s) issued, annulled, revoked or		visa(s) issued, annulled, revoked or	

whose validity is extended, referred		whose validity is extended, referred	
to in Articles 10, 13 and 14.		to in Articles 10, 13 and 14.	
5. In addition to the consultation	5. In addition to the consultation	5. In addition to the consultation	Provisionally agreed
carried out under paragraph 1, the	carried out under paragraph 1, the	carried out under paragraph 1, and	5. In addition to the consultation
competent border authority shall	competent border authority shall	prior to consulting the data in	carried out under paragraph 1, the
verify the identity of a person against	verify the identity of a person against	accordance with paragraphs 3 or 4,	competent authority for carrying out
the VIS if the search with the data	the VIS if the search with the data	the competent [] authority for	checks at borders at which the EES is
listed in paragraph 1 indicates that	listed in paragraph 1 indicates that	carrying out checks at borders at	operated shall verify the identity of a
data on the person are recorded in the	data on the person are recorded in the	which the EES is operated shall	person against the VIS if the search
VIS and one of the following	VIS and one of the following	verify the identity of a person against	with the data listed in paragraph 1
conditions is met:	conditions is met:	the VIS if the search with the data	indicates that data on the person are
		listed in paragraph 1 indicates that	recorded in the VIS and one of the
		data on the person are recorded in the	following conditions is met:
		VIS and one of the following	
		conditions is met:	
(a) the identity of the person cannot	(a) the identity of the person cannot	(a) the identity of the person cannot	
be verified against the EES in	be verified against the EES in	be verified against the EES in	
accordance with Article 21(2) of	accordance with Article 21(2) of	accordance with Article 21(2) of	
[Regulation establishing an	[Regulation establishing an	[Regulation establishing an	
Entry/Exit System (EES)], when:	Entry/Exit System (EES)], when:	Entry/Exit System (EES)], when:	
(i) the visa holder is not yet	(i) the visa holder is not yet	(i) the visa holder is not yet	
registered into the EES;	registered into the EES;	registered into the EES;	
(ii) the technology is not available at	(ii) the technology is <i>temporarily</i>	(ii) the technology is not available at	
the border crossing point for the use	not available at the border crossing	the border crossing point for the use	Provisionally agreed:
of live facial image and therefore the	point for the use of live facial image	of live facial image and therefore the	(ii)in the concerned border crossing
identity of the visa holder cannot be	and therefore the identity of the visa	identity of the visa holder cannot be	point, the identity is verified using
verified against the EES;	holder cannot be verified against the	verified against the EES;	fingerprints in accordance with
	EES;		Article 21(2) of [Regulation
			establishing an Entry/Exit System
			(EES)],

(iii) there are doubts as to the identity	(iii) there are doubts as to the identity	(iii) there are doubts as to the identity	
of the visa holder;	of the visa holder;	of the visa holder;	
(iv) for any other reason, the identity	(iv) for any other reason, the identity	(iv) for any other reason, the identity	
of the visa holder cannot be verified	of the visa holder cannot be verified	of the visa holder cannot be verified	
against the EES;	against the EES;	against the EES;	
(b) the identity of the person can be	(b) the identity of the person can be	(b) the identity of the person can be	Provisionally agreed:
verified against the EES but, for the	verified against the EES but, for the	verified against the EES but, for the	(b) the identity of the person can be
first time after the creation of the	first time after the creation of the	first time after the creation of the	verified against the EES but, for the
individual file, that person intends to	individual file, that person intends to	individual file, that person intends to	first time after the creation of the
cross the external borders of a	cross the external borders of a	cross [] <u>a border of a Member</u>	individual file, that person intends to
Member State in which this	Member State in which this	State in which this Regulation is	cross <u>a border of a Member State in</u>
Regulation is applicable.	Regulation is applicable.	applicable and at which the EES is	which this Regulation is applicable
		operated.	and at which the EES is operated.
The border authorities shall verify	The border authorities shall verify	The <u>competent</u> [] authorities <u>for</u>	Provisionally agreed:
the fingerprints of the visa holder	the fingerprints of the visa holder	carrying out checks at borders at	The <u>competent</u> authorities <u>for</u>
against the fingerprints recorded in	against the fingerprints recorded in	which the EES is operated shall	carrying out checks at borders at
the VIS. For visa holders whose	the VIS. For visa holders whose	verify the fingerprints of the visa	which the EES is operated shall
fingerprints cannot be used, the	fingerprints cannot be used, the	holder against the fingerprints	verify the fingerprints of the visa
search mentioned under paragraph 1	search mentioned under paragraph 1	recorded in the VIS. For visa holders	holder against the fingerprints
shall be carried out only with the	shall be carried out only with the	whose fingerprints cannot be used,	recorded in the VIS. For visa holders
alphanumeric data foreseen under	alphanumeric data foreseen under	the search mentioned under	whose fingerprints cannot be used,
paragraph 1 of this Article.	paragraph 1 of this Article.	paragraph 1 shall be carried out only	the search mentioned under
		with the alphanumeric data foreseen	paragraph 1 shall be carried out only
		under paragraph 1 of this Article.	with the alphanumeric data foreseen
	/		under paragraph 1 of this Article.
6. For the purpose of a verifying the	6. For the purpose of a verifying the	6. For the purpose of a verifying the	
fingerprints against the VIS as laid	fingerprints against the VIS as laid	fingerprints against the VIS as laid	
down under paragraph 5, the	down under paragraph 5, the	down under paragraph 5, the	
competent authority may launch a	competent authority may launch a	competent authority may launch a	
search from the EES to the VIS.	search from the EES to the VIS.	search from the EES to the VIS.	

7. In circumstances where verification of the visa holder or of the visa fails or where there are	7. In circumstances where verification of the visa holder or of the visa fails or where there are	7. In circumstances where verification of the visa holder or of the visa fails or where there are	
doubts as to the identity of the visa holder, the authenticity of the visa	doubts as to the identity of the visa holder, the authenticity of the visa	doubts as to the identity of the visa holder, the authenticity of the visa	
and/or the travel document, the duly authorised staff of those competent	and/or the travel document, the duly authorised staff of those competent	and/or the travel document, the duly authorised staff of those competent	
authorities shall have access to data in accordance with Article 20(1) and (2)."	authorities shall have access to data in accordance with Article $20(1)$ and (2) ."	authorities shall have access to data in accordance with Article 20(1) and (2)."	
(6) The following Article 18a is inserted:	(6) The following Article 18a is inserted:	(6) The following Article 18a is inserted:	
"Article 18a	"Article 18a	"Article 18a	Compromise text provisionally
Retrieval of VIS data for creating or	Retrieval of VIS data for creating or	Retrieval of VIS data for creating or	agreed:
updating the individual file of a visa	updating the individual file of a visa	updating [] <u>entry/exit record or</u>	"Article 18a
holder into the EES	holder into the EES	<u>refusal of entry record of</u> a visa	Retrieval of VIS data for creating or
		holder into the EES	updating <mark>[the individual file or the]</mark>
			entry/exit record or the refusal of
			entry record of a visa holder into the
			EES
1. Solely for the purpose of creating	1. Solely for the purpose of creating	1. [] <u>When</u> creating or updating the	Provisionally agreed:
or updating the individual file of a	or updating the individual file of a	[] entry/exit record or refusal of	1. Solely for the purpose of creating
visa holder in the EES in accordance	visa holder in the EES in accordance	entry record of a visa holder in the	or updating the <u>entry/exit record or</u>
with Article 13(2) and Articles 14	with Article 13(2) and Articles 14	EES in accordance with Article 13(2)	refusal of entry record of a visa
and 16 of [Regulation establishing an	and 16 of [Regulation establishing an	and Article 14 and 16 of [Regulation	holder in the EES in accordance with
Entry/Exit System (EES)], the	Entry/Exit System (EES)], the	establishing an Entry/Exit System	Article 13(2) and Article 14 and 16
competent border authority shall be	competent border authority shall be	(EES)], the competent [] authority	of [Regulation establishing an
given access to retrieve in the VIS	given access to retrieve in the VIS	for carrying out checks at borders at	Entry/Exit System (EES)], the
and import to the EES, the data	and import to the EES, the data	which the EES is operated shall be	competent authority <u>for carrying out</u>
stored in the VIS and listed in Article	stored in the VIS and listed in Article	given access to retrieve in the VIS	checks at borders at which the EES is
14(1)(d), (e) and (g) of [Regulation	14(1)(d), (e) and (g) of [Regulation	and import automatically to the EES,	operated shall be given access to

establishing an Entry/Exit System (EES)].	establishing an Entry/Exit System (EES)].	the data stored in the VIS and listed in Article $14([]2) (c), (d), (e), (f)$ and (g) of [Regulation establishing an Entry/Exit System (EES)].	retrieve in the VIS and import to the EES, the data stored in the VIS and listed in Article $14(2)$ (c), (d), (e), (f) and (g) of [Regulation establishing an Entry/Exit System (EES)].
(7) The following Article 19a is inserted:	(7) The following Article 19a is inserted:	(7) The following Article 19a is inserted:	
Article 19a Use of the VIS before creating in the EES the individual files of third country nationals exempt from the visa obligation as laid down in Article 10 of [Regulation establishing an Entry/Exit System (EES)]	Article 19a Use of the VIS before creating in the EES the individual files of third country nationals exempt from the visa obligation as laid down in Article 10 of [Regulation establishing an Entry/Exit System (EES)]	"Article 19a Use of the VIS before creating in the EES the individual files of third country nationals exempt from the visa obligation as laid down in Article [] <u>21</u> of [Regulation establishing an Entry/Exit System (EES)]	Provisionally agreed: "Article 19a Use of the VIS before creating in the EES the individual files of third country nationals exempt from the visa obligation as laid down in Article <u>21</u> of [Regulation establishing an Entry/Exit System (EES)]
1. For the purpose of checking whether a person has been previously registered in the VIS, the competent authorities for carrying out checks at external border crossing points in accordance with Regulation (EU) 2016/399 shall consult the VIS:	1. For the purpose of checking whether a person has been previously registered in the VIS, the competent authorities for carrying out checks at external border crossing points in accordance with Regulation (EU) 2016/399 shall consult the VIS:	1. For the purpose of checking whether a person has been previously registered in the VIS, the competent authorities for carrying out checks at external border crossing points in accordance with Regulation (EU) 2016/399 shall consult the VIS	
(a) before creating in the EES the individual file of third country nationals exempt from the visa obligation as laid down in Article 15 of [Regulation establishing an Entry/Exit System (EES)];	(a) before creating in the EES the individual file of third country nationals exempt from the visa obligation as laid down in Article 15 of [Regulation establishing an Entry/Exit System (EES)];	[] before creating in the EES the individual file of third country nationals exempt from the visa obligation as laid down in Article 15 of [Regulation establishing an Entry/Exit System (EES)];	Provisionally agreed: before creating in the EES the individual file of third country nationals exempt from the visa obligation as laid down in Article 15 of [Regulation establishing an Entry/Exit System (EES)];
(b) for third country nationals exempt from the visa obligation who had their individual file created in the	(b) for third country nationals exempt from the visa obligation who had their individual file created in the	[].	Linked to the territorial scope of the EES Regulation. Provisionally agreed:

EES by a Member State in which this	EES by a Member State in which this		deleted
Regulation is not applicable, when,	Regulation is not applicable, when,		
for the first time after the creation of	for the first time after the creation of		
the individual file, the person intends	the individual file, the person intends		
to cross the external borders of a	to cross the external borders of a		
Member State in which this	Member State in which this		
Regulation is applicable.	Regulation is applicable.		
2. For the purpose of paragraph 1,	2. For the purpose of paragraph 1, /	2. For the purpose of paragraph 1,	Provisionally agreed:
where Article 21(4) of [Regulation	where Article 21(4) of [Regulation /	where Article 21(4) of [Regulation	2. For the purpose of paragraph 1,
establishing an Entry/Exit System	establishing an Entry/Exit System/	establishing an Entry/Exit System	where Article 21(4) of [Regulation
(EES)] applies and the search	(EES)] applies and the search	(EES)] applies and the search	establishing an Entry/Exit System
referred to in Article 25 of that	referred to in Article 25 of that	referred to in Article 25 of that	(EES)] applies and the search
Regulation indicates that data on a	Regulation indicates that data on a	Regulation indicates that data on a	referred to in Article 25 of that
person are not recorded in the EES or	person are not recorded in the EES or	person are not recorded in the EES or	Regulation indicates that data on a
where Article 21(5) of [Regulation	where Article 21(5) of [Regulation	where Article 21(5) of [Regulation	person are not recorded in the EES or
establishing an Entry/Exit System	establishing an Entry/Exit System	establishing an Entry/Exit System	where Article 21(5) of [Regulation
(EES)] applies, the competent border	(EES)] applies, the competent border	(EES)] applies, the competent []	establishing an Entry/Exit System
authority shall have access to search	authority shall have access to search	authority for carrying out checks at	(EES)] applies, the competent
using the following data: surname	using the following data: surname	borders at which the EES is operated	authority for carrying out checks at
(family name), first name(s) (given	(family name), first name(s) (given	shall have access to search using the	borders at which the EES is operated
names); date of birth, nationality;	names); date of birth, nationality;	following data: surname (family	shall have access to search using the
sex; type and number of the travel	sex; type and number of the travel	name), first name(s) (given names);	following data: surname (family
document; three letter code of the	document; three letter code of the	date of birth, nationality; sex; type	name), first name(s) (given names);
issuing country of the travel	issuing country of the travel	and number of the travel document;	date of birth, nationality; sex; type
document, and the date of expiry of	document, and the date of expiry of	three letter code of the issuing	and number of the travel document;
the validity of the travel document.	the validity of the travel document.	country of the travel document, and	three letter code of the issuing
		the date of expiry of the validity of	country of the travel document, and
		the travel document.	the date of expiry of the validity of
	/		the travel document.
3. Solely for the purposes referred to	3. Solely for the purposes referred to	3. Solely for the purposes referred to	Provisionally agreed:
in paragraph 1, further to a search	in paragraph 1, further to a search	in paragraph 1, further to a search	3. Solely for the purposes referred to
launched in the EES pursuant to	launched in the EES pursuant to	launched in the EES pursuant to	in paragraph 1, further to a search
Article 21(4) of [Regulation	Article 21(4) of [Regulation	Article 21(4) of [Regulation	launched in the EES pursuant to

establishing an Entry/Exit System	establishing an Entry/Exit System	establishing an Entry/Exit System	Article 21(4) of [Regulation
(EES)] or where Article 21(5) of	(EES)] or where Article 21(5) of	(EES)] or where Article 21(5) of	establishing an Entry/Exit System
[Regulation establishing an	[Regulation establishing an	[Regulation establishing an	(EES)] or where Article 21(5) of
Entry/Exit System (EES)] applies,	Entry/Exit System (EES)) applies,	Entry/Exit System (EES)] applies,	[Regulation establishing an
the competent border authority may	the competent border authority may	the competent [] authority for	Entry/Exit System (EES)] applies,
launch a search in the VIS directly	launch a search in the VIS directly	carrying out checks at borders at	the competent authority for carrying
5			1 3
from the EES using the alphanumeric	from the EES using the alphanumeric	which the EES is operated may	out checks at borders at which the
data foreseen under paragraph 2.	data foreseen under paragraph 2.	launch a search in the VIS directly	EES is operated may launch a search
		from the EES using the alphanumeric	in the VIS directly from the EES
		data foreseen under paragraph 2.	using the alphanumeric data foreseen
			under paragraph 2.
		4. In addition, if the search with	Change in the order of paragraphs
		the data listed in paragraph 2	agreed upon (para 4 becomes para
		indicates that data on the person are	5).
		recorded on the VIS, the competent	Provisionally agreed:
		authority for carrying out checks at	<u>4.</u> <u>In addition, if the search with</u>
		borders at which the EES is operated	the data listed in paragraph 2
		shall verify the fingerprints of the	indicates that data on the person are
		person against the fingerprints	recorded on the VIS, the competent
		recorded in the VIS. That authority	authority for carrying out checks at
		may launch such verification from	borders at which the EES is operated
		the EES. For persons whose	shall verify the fingerprints of the
		fingerprints cannot be used, the	person against the fingerprints
		search shall be carried out only with	recorded in the VIS. That authority
		the alphanumeric data foreseen under	may launch such verification from
		paragraph 2 of this Article.	the EES. For persons whose
			fingerprints cannot be used, the
			search shall be carried out only with
			the alphanumeric data foreseen under
			paragraph 2 of this Article.
4. If the search with the data listed in	4. If the search with the data listed in	5. If the search with the data	Change in the order of the
paragraph 2 indicates that data on the	paragraph 2 indicates that data on the	listed in paragraph 2 and the	paragraphs agreed upon (par. 5
person are recorded on the VIS, the	person are recorded on the VIS, the	verification of paragraph 4 indicates	<u>becomes para 4).</u>

competent border authority shall be given access to consult the following data of the concerned application file(s) as well as of linked application file(s) pursuant to Article 8(4), solely for the purposes referred to in paragraph 1:	competent border authority shall be given access to consult the following data of the concerned application file(s) as well as of linked application file(s) pursuant to Article 8(4), solely for the purposes referred to in paragraph 1:	that data on the person are recorded on the VIS, the competent [] authority <u>for carrying out checks at</u> <u>borders at which the EES is operated</u> shall be given access to consult the following data of the concerned application file(s) as well as of linked application file(s) pursuant to Article 8(4), solely for the purposes referred to in paragraph 1:	 Provisionally agreed: 5. If the search with the data listed in paragraph 2 and the verification of paragraph 4 indicates that data on the person are recorded on the VIS, the competent authority for carrying out checks at borders at which the EES is operated shall be given access to consult the following data of the concerned application file(s) as well as of linked application file(s) pursuant to Article 8(4), solely for the purposes referred to in paragraph 1:
(a) the status information and the data taken from the application form, referred to in Article 9(2) and (4);	(a) the status information and the data taken from the application form, referred to in Article 9(2) and (4);	(a) the status information and the data taken from the application form, referred to in Article 9(2) and (4);	
(b) photographs;	(b) photographs;	(b) photographs;	
(c) the data entered in respect of the visa(s) issued, annulled, revoked or whose validity is extended referred to in Articles 10, 13 and 14.	(c) the data entered in respect of the visa(s) issued, annulled, revoked or whose validity is extended referred to in Articles 10, 13 and 14.	(c) the data entered in respect of the visa(s) issued, annulled, revoked or whose validity is extended referred to in Articles 10, 13 and 14.	
5. In addition, if the search with the data listed in paragraph 2 indicates that data on the person are recorded on the VIS, the competent border authority shall verify the fingerprints of the person against the fingerprints recorded in the VIS. The competent border control authority may launch such verification from the EES. For persons whose fingerprints cannot be used, the search shall be carried out	5. In addition, if the search with the data listed in paragraph 2 indicates that data on the person are recorded on the VIS, the competent border authority shall verify the fingerprints of the person against the fingerprints recorded in the VIS. The competent border control authority may launch such verification from the EES. For persons whose fingerprints cannot be used, the search shall be carried out	5. []	Provisionally agreed: 5. []

only with the alphanumeric data	only with the alphanumeric data		
foreseen under paragraph 2 of this	foreseen under paragraph 2 of this		
Article.	Artiele.		
6. In circumstances where the	6. In circumstances where the	6. In circumstances where the	Provisionally agreed:
verification provided under	verification provided under	verification provided under	6. In circumstances where the
paragraphs 2 and/or 5 fails or where	paragraphs 2 and/or 5 fails or where	paragraphs 2 and/or 5 fails or where	verification provided under
there are doubts as to the identity of	there are doubts as to the identity of	there are doubts as to the identity of	paragraphs 2 and/or 5 fails or where
the person or the authenticity of the	the person or the authenticity of the	the person or the authenticity of the	there are doubts as to the identity of
travel document, the duly authorised	travel document, the duly authorised	travel document, the duly authorised	the person or the authenticity of the
staff of those competent authorities	staff of those competent authorities	staff of those competent authorities	travel document, the duly authorised
shall have access to data in	shall have access to data in	shall have access to data in	staff of those competent authorities
accordance with Article 20(1) and	accordance with Article 20(1) and	accordance with Article 20(1) and	shall have access to data in
(2). The competent border authority	(2). The competent border authority	(2). The competent [] authority for	accordance with Article 20(1) and
may launch from the EES the	may launch from the EES the	carrying out checks at borders at	(2). The competent [] authority for
identification referred to in Article 20	identification referred to in Article 20	which the EES is operated may	carrying out checks at borders at
of this Regulation."	of this Regulation."	launch from the EES the	which the EES is operated may
		identification referred to in Article 20	launch from the EES the
		of this Regulation."	identification referred to in Article 20
			of this Regulation."
(8) In Article 20, paragraph 1 is	(8) In Article 20, <i>the first</i>	(8) In Article 20, paragraph 1 is	Provisionally agreed:
replaced by the following:	subparagraph of paragraph 1 is	replaced by the following:	(8) In Article 20, <i>the first</i>
	replaced by the following:		subparagraph of paragraph 1 is
			replaced by the following:
"1. Solely for the purposes of the	"1. Solely for the purposes of the	"1. The authorities competent for	Provisionally agreed:
identification of any person who may	identification of any person who may	carrying out checks at borders at	1. Solely for the purposes of the
have been registered previously in	have been registered previously in	which the EES is operated or within	identification of any person who may
the VIS or who may not, or may no	the VIS or who may not, or may no	the territory of the Member States as	have been registered previously in
longer, fulfil the conditions for the	longer, fulfil the conditions for the	to whether the conditions for entry	the VIS or who may not, or may no
entry to, stay or residence on the	entry to, stay or residence on the	to, stay or residence on the territory	longer, fulfil the conditions for the
territory of the Member States, the	territory of the Member States, the	of the Member States are fulfilled,	entry to, stay or residence on the
authorities competent for carrying	authorities competent for carrying	shall have access to search with the	territory of the Member States, the
out checks at external border	out checks at external border	fingerprints of that person [] for	authorities competent for carrying
crossing points in accordance with	erossing points in accordance with	the sole purposes of the identification	out checks at borders at which the

Regulation (EU) 2016/399 or within	Regulation (EU) 2016/399 or within	of any person who may have been	EES is operated or within the
the territory of the Member States as	the territory of the Member States as	registered previously in the VIS or	territory of the Member States as to
5			
to whether the conditions for entry	to whether the conditions for entry	who may not, or may no longer, fulfil	whether the conditions for entry to,
to, stay or residence on the territory	to, stay or residence on the territory	the conditions for the entry to, stay or	stay or residence on the territory of
of the Member States are fulfilled,	of the Member States are fulfilled,	residence on the territory of the	the Member States are fulfilled, shall
shall have access to search with the	shall have access to search with the	Member States []."	have access to search with the
fingerprints of that person."	fingerprints of that person."		fingerprints of that person.
(9) In Article 26 the following	(9) In Article 26 the following	(9) In Article 26 the following	
paragraph is inserted:	paragraph is inserted:	paragraph is inserted:	
"3a. [Six months after the entry into	3a. [Six months after the entry	"3a. [Six months after the entry into	Provisionally agreed:
force of Regulation establishing an	into force of Regulation establishing	force of Regulation establishing an	"3a. [Six months after the entry into
<i>Entry/Exit System (EES)</i>], the	an Entry/Exit System (EES)], the	<i>Entry/Exit System (EES)</i>], the	force of Regulation establishing an
Management Authority shall be	Management Authority eu-LISA	Management Authority shall be	<i>Entry/Exit System (EES)</i>], the
responsible for the tasks referred to	shall be responsible for the tasks	responsible for the tasks referred to	Management Authority shall be
in paragraph 3 of this Article."	referred to in paragraph 3 of this	in paragraph 3 of this Article."	responsible for the tasks referred to
	Article.		in paragraph 3 of this Article."
(10) In Article 34, paragraph 1 is	(10) In Article 34, paragraph 1 is	(10) In Article 34, paragraph 1 is	
replaced by the following:	replaced by the following:	replaced by the following:	
"1. Each Member State and the	1. Each Member State and the	"1. Each Member State and the	Provisionally agreed:
Management Authority shall keep	Management Authority eu-LISA	Management Authority shall keep	"1. Each Member State and the
records of all data processing	shall keep records of all data	records of all data processing	Management Authority shall keep
operations within the VIS. These	processing operations within the VIS.	operations within the VIS. These	records of all data processing
records shall show the purpose of	These records shall show the purpose	records shall show the purpose of	operations within the VIS. These
access referred to in Article $6(1)$ and	of access referred to in Article $6(1)$	access referred to in Article $6(1)$ and	records shall show the purpose of
in Articles 15 to 22, the date and	and in Articles 15 to 22, the date and	in Articles 15 to 22, the date and	access referred to in Article 6(1) and
time, the type of data transmitted as	time, the type of data transmitted as	time, the type of data transmitted as	in Articles 15 to 22, the date and
referred to in Articles 9 to 14, the	referred to in Articles 9 to 14, the	referred to in Articles 9 to 14, the	time, the type of data transmitted as
type of data used for interrogation as	type of data used for interrogation as	type of data used for interrogation as	referred to in Articles 9 to 14, the
referred to in Articles 15(2), 17,	referred to in Articles 15(2), 17,	referred to in Articles 15(2), 17,	type of data used for interrogation as
18(1), 18 (5), 19(1), 19a(2), 19a(5),	18(1), 18 (5), 19(1), 19a(2), 19a(5),	18(1), 18 (5), 19(1), 19a(2), 19a(5),	referred to in Articles 15(2), 17,
20(1), 21(1) and 22(1) and the name	20(1), 21(1) and 22(1) and the name	20(1), 21(1) and 22(1) and the name	18(1), 18 (5), 19(1), 19a(2), 19a(5),
of the authority entering or retrieving	of the authority entering or retrieving	of the authority entering or retrieving	20(1), $21(1)$ and $22(1)$ and the name
the data. In addition, each Member	the data. In addition, each Member	the data. In addition, each Member	of the authority entering or retrieving

State shall keep records of the staff	State shall keep records of the staff	State shall keep records of the staff	the data. In addition, each Member
duly authorised to enter or retrieve	duly authorised to enter or retrieve	duly authorised to enter or retrieve	State shall keep records of the staff
the data.	the data.	the data.	duly authorised to enter or retrieve
			the data.
1a. For the operations listed in	1a. For the operations listed in	1a. For the operations listed in	
Article 17a a record of each data	Article 17a a record of each data	Article 17a a record of each data	
processing operation carried out	processing operation carried out	processing operation carried out	
within the VIS and the EES shall be	within the VIS and the EES shall be	within the VIS and the EES shall be	
kept in accordance with this Article	kept in accordance with this Article	kept in accordance with this Article	
and Article 41 of the [Regulation	and Article 41 of the [Regulation	and Article 41 of the [Regulation	
establishing an Entry/Exit System	establishing an Entry/Exit System	establishing an Entry/Exit System	
(EES)]."	(EES)]."	(EES)]."	
Article 56	Article 56	Article 56	
Amendments to Regulation (EU) No	Amendments to Regulation (EU) No	Amendments to Regulation (EU) No	
1077/2011	1077/2011	1077/2011	
Regulation (EU) No 1077/2011 is	Regulation (EU) No 1077/2011 is	Regulation (EU) No 1077/2011 is	
amended as follows:	amended as follows:	amended as follows:	
(1) In Article 1, paragraph 2 is	(1) In Article 1, paragraph 2 is	(1) In Article 1, paragraph 2 is	
replaced by the following:	replaced by the following:	replaced by the following:	
"2. The Agency shall be responsible	"2. The Agency shall be responsible	"2. The Agency shall be responsible	
for the operational management of	for the operational management of	for the operational management of	
the second generation Schengen	the second generation Schengen	the second generation Schengen	
Information System (SIS II), the Visa		Information System (SIS II), the Visa	
Information System, Eurodac and the	Information System, Eurodac and the	Information System, Eurodac and the	
Entry/Exit System (EES).	Entry/Exit System (EES).	Entry/Exit System (EES).	
(2) A new Article 5a is added	(2) A new Article 5a is added	(2) A new Article 5a is added	
after Article 5:	after Article 5:	after Article 5:	
"Article 5a	"Article 5a	"Article 5a	
Tasks relating to the EES	Tasks relating to the EES	Tasks relating to the EES	
In relation to the EES, the Agency	In relation to the EES, the Agency	In relation to the EES, the Agency	
shall perform:	shall perform:	shall perform:	

(a) the tasks conferred on it by Regulation (EU) No XXX/20XX of the European Parliament and of the Council of X.X.X establishing an Entry/Exit System to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the European Union and determining the conditions for access	(a) the tasks conferred on it by Regulation (EU) No XXX/20XX of the European Parliament and of the Council of X.X.X establishing an Entry/Exit System to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the European Union and determining the conditions for access	(a) the tasks conferred on it by Regulation (EU) No XXX/20XX of the European Parliament and of the Council of X.X.X establishing an Entry/Exit System to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the European Union and determining the conditions for access	
to the EES for law enforcement	to the EES for law enforcement purposes;	to the EES for law enforcement	
b) tasks relating to training on the technical use of the EES."	(b) tasks relating to training on the technical use of the EES."	(b) tasks relating to training on the technical use of the EES."	
(3) Article 7 is amended as follows:	(3) Article 7 is amended as follows:	(3) Article 7 is amended as follows:	
(a) paragraphs 5 and 6 are replaced by the following:	(a) paragraphs 5 and 6 are replaced by the following:	(a) paragraphs 5 and 6 are replaced by the following:	
"5. Tasks related to the operational management of the communication infrastructure may be entrusted to external private-sector entities or bodies in accordance with Regulation (EC, Euratom)1605/2002. In such a case, the network provider shall be bound by the security measures referred to in paragraph 4 and shall have no access to SIS II, VIS, Eurodac or EES operational data, or to the SIS II-related SIRENE exchange, by any means.	"5. Tasks related to the operational management of the communication infrastructure may be entrusted to external private-sector entities or bodies in accordance with Regulation (EC, Euratom)1605/2002. In such a case, the network provider shall be bound by the security measures referred to in paragraph 4 and shall have no access to SIS II, VIS, Eurodac or EES operational data, or to the SIS II-related SIRENE exchange, by any means.	"5. Tasks related to the operational management of the communication infrastructure may be entrusted to external private-sector entities or bodies in accordance with Regulation (EC, Euratom)1605/2002. In such a case, the network provider shall be bound by the security measures referred to in paragraph 4 and shall have no access to SIS II, VIS, Eurodac or EES operational data, or to the SIS II-related SIRENE exchange, by any means.	

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6. Without prejudice to the existing	6. Without prejudice to the existing	6. Without prejudice to the existing	
contracts on the network of SIS II,	contracts on the network of SIS II,	contracts on the network of SIS II,	
VIS, Eurodac and EES, the	VIS, Eurodac and EES, the	VIS, Eurodac and EES, the	
management of encryption keys shall	management of encryption keys shall	management of encryption keys shall	
remain within the comptence of the	remain within the comptence of the	remain within the competence of the	
Agency and shall not be outsourced	Agency and shall not be outsourced	Agency and shall not be outsourced	
to any external private-sector entity."	to any external private-sector entity."	to any external private-sector entity."	
(4) In Article 8, paragraph 1 is	(4) In Article 8, paragraph 1 is	(4) In Article 8, paragraph 1 is	
replaced by the following:	replaced by the following:	replaced by the following:	
"1. The Agency shall monitor the	"1. The Agency shall monitor the	"1. The Agency shall monitor the	
developments in research relevant for	developments in research relevant for	developments in research relevant for	
the operational management of SIS	the operational management of SIS	the operational management of SIS	
II, VIS, Eurodac, EES and other	II, VIS, Eurodac, EES and other	II, VIS, Eurodac, EES and other	
large-scale information systems".	large-scale information systems".	large-scale information systems".	
(5) In Article 12, paragraph 1 is	(5) In Article 12, paragraph 1 is	(5) In Article 12, paragraph 1 is	
amended as follows:	amended as follows:	amended as follows:	
(a) a new point (sa) is added after	(a) a new point (sa) is added after	(a) a new point (sa) is added after	
point (s):	point (s):	point (s):	
"(sa) adopt the reports on the	"(sa) adopt the reports on the	"(sa) adopt the reports on the	
development of the EES pursuant to	development of the EES pursuant to	development of the EES pursuant to	
Article 64(2) of Regulation (EU)	Article 64(2) of Regulation (EU)	Article 64(2) of Regulation (EU)	
XX/XX of XXX".	XX/XX of XXX".	XX/XX of XXX".	
(a) point (t) is replaced by the	(a) point (t) is replaced by the	(a) point (t) is replaced by the	
following:	following:	following:	
"(t) adopt the reports on the technical	"(t) adopt the reports on the technical	"(t) adopt the reports on the technical	
functioning of SIS II pursuant to	functioning of SIS II pursuant to	functioning of SIS II pursuant to	
Article 50(4) of Regulation (EC) No	Article 50(4) of Regulation (EC) No	Article 50(4) of Regulation (EC) No	
1987/2006 and Article 66(4) of	1987/2006 and Article 66(4) of	1987/2006 and Article 66(4) of	
Decision 2007/533/JHA respectively,	Decision 2007/533/JHA respectively,	Decision 2007/533/JHA respectively,	
of VIS pursuant to Article 50(3) of	of VIS pursuant to Article 50(3) of	of VIS pursuant to Article 50(3) of	
Regulation (EC) No 767/2008 and	Regulation (EC) No 767/2008 and	Regulation (EC) No 767/2008 and	
Article 17(3) of Decision	Article 17(3) of Decision	Article 17(3) of Decision	

2008/633/JHA and of EES pursuant	2008/633/JHA and of EES pursuant	2008/633/JHA and of EES pursuant	
to Article 64(4) of Regulation (EU)	to Article 64(4) of Regulation (EU)	to Article 64(4) of Regulation (EU)	
XX/XX of XXX."	XX/XX of XXX."	XX/XX of XXX."	
(b) point (v) is replaced by the	(b) point (v) is replaced by the	(b) point (v) is replaced by the	
following:	following:	following:	
"(v) make comments on the	"(v) make comments on the	"(v) make comments on the	
European Data Protection	European Data Protection	European Data Protection	
Supervisor's reports on the audits	Supervisor's reports on the audits	Supervisor's reports on the audits	
pursuant to Article 45(2) of	pursuant to Article 45(2) of	pursuant to Article 45(2) of	
Regulation (EC) No 1987/2006,	Regulation (EC) No 1987/2006,	Regulation (EC) No 1987/2006,	
Article 42(2) of Regulation (EC)	Article 42(2) of Regulation (EC)	Article 42(2) of Regulation (EC)	
No 767/2008, Article 31(2) of	No 767/2008, Article 31(2) of	No 767/2008, Article 31(2) of	
Regulation (EU) No 603/2013 and	Regulation (EU) No 603/2013 and	Regulation (EU) No 603/2013 and	
Article 50(2) of Regulation (EU)	Article $50(2)$ of Regulation (EU)	Article 50(2) of Regulation (EU)	
XX/XX of XXX and ensure	XX/XX of XXX and ensure	XX/XX of XXX and ensure	
appropriate follow-up of those	appropriate follow-up of those	appropriate follow-up of those	
audits".	audits".	audits".	
(b) a new point (xa) is inserted after	(b) a new point (xa) is inserted after	(b) a new point (xa) is inserted after	
point x:	point x:	point x:	
"(xa) publish statistics related to EES	"(xa) publish statistics related to EES	"(xa) publish statistics related to EES	
pursuant to Article 57 of Regulation	pursuant to Article 57 of Regulation	pursuant to Article 57 of Regulation	
(EU) No XXXX/XX.	(EU) No XXXX/XX.	(EU) No XXXX/XX.	
(c) a new point (za) is added to point	(c) a new point (za) is added to point	(c) a new point (za) is added to point	
Z:	Z:	Z:	
"(za) ensure annual publication of the	"(za) ensure annual publication of the	"(za) ensure annual publication of the	
list of competent authorities pursuant	list of competent authorities pursuant	list of competent authorities pursuant	
to Article 8(2) of Regulation (EU)	to Article 8(2) of Regulation (EU)	to Article 8(2) of Regulation (EU)	
No XXXX/XX.	No-XXXX/XX.	No XXXX/XX.	
(6) In Article 15, paragraph 4 is	(6) In Article 15, paragraph 4 is	(6) In Article 15, paragraph 4 is	
replaced by the following:	replaced by the following:	replaced by the following:	
"4. Europol and Eurojust may attend	"4. Europol and Eurojust may attend	"4. Europol and Eurojust may attend	
the meetings of the Management	the meetings of the Management	the meetings of the Management	

Board as observers when a question	Board as observers when a question	Board as observers when a question	
concerning SIS II, in relation to the	concerning SIS II, in relation to the	concerning SIS II, in relation to the	
application of Decision	application of Decision	application of Decision	
2007/533/JHA, is on the agenda.	2007/533/JHA, is on the agenda.	2007/533/JHA, is on the agenda.	
Europol may also attend the meetings	Europol may also attend the meetings	Europol may also attend the meetings	
of the Management Board as	of the Management Board as	of the Management Board as	
observer when a question concerning	observer when a question concerning	observer when a question concerning	
VIS, in relation to the application of	VIS, in relation to the application of	VIS, in relation to the application of	
Decision 2008/633/JHA, or a	Decision 2008/633/JHA, or a	Decision 2008/633/JHA, or a	
question concerning Eurodac, in	question concerning Eurodac, in	question concerning Eurodac, in	
relation to the application of	relation to the application of	relation to the application of	
Regulation (EU) No 603/2013, or a	Regulation (EU) No 603/2013, or a	Regulation (EU) No 603/2013, or a	
question concerning EES in relation	question concerning EES in relation	question concerning EES in relation	
to the application of Regulation (EU)	to the application of Regulation (EU)	to the application of Regulation (EU)	
XX/XX of XXX is on the agenda".	XX/XX of XXX is on the agenda".	XX/XX of XXX is on the agenda".	
(7) In Article 17 paragraph 5,	(7) In Article 17 paragraph 5,	(7) In Article 17 paragraph 5,	
point (g) is replaced by the	point (g) is replaced by the	point (g) is replaced by the	
following:	following:	following:	
"(g) without prejudice to Article 17	"(g) without prejudice to Article 17/	"(g) without prejudice to Article 17	
of the Staff Regulations, establish	of the Staff Regulations, establish	of the Staff Regulations, establish	
confidentiality requirements in order	confidentiality requirements in order	confidentiality requirements in order	
to comply with Article 17 of	to comply with Article 17 of	to comply with Article 17 of	
Regulation (EC) No 1987/2006,	Regulation (EC) No 1987/2006,	Regulation (EC) No 1987/2006,	
Article 17 of Decision	Article 17 of Decision	Article 17 of Decision	
2007/533/JHA, Article 26(9) of	2007/533/JHA, Article 26(9) of	2007/533/JHA, Article 26(9) of	
Regulation (EC) No 767/2008,	Regulation (EC) No 767/2008,	Regulation (EC) No 767/2008,	
Article 4(4) of Regulation (EU)	Article 4(4) of Regulation (EU)	Article 4(4) of Regulation (EU)	
No 603/2013 and Article 34(4) of	No 603/2013 and Article 34(4) of	No 603/2013 and Article 34(4) of	
[Regulation (EU) XX/XX of XXX.]"	[Regulation (EU) XX/XX of XXX.]"	[Regulation (EU) XX/XX of XXX.]"	
(8) Article 19 is amended as	(8) Article 19 is amended as	(8) Article 19 is amended as	
follows:	follows:	follows:	
(a) paragraph 1 is replaced by the	(a) paragraph 1 is replaced by the	(a) paragraph 1 is replaced by the	
following:	following:	following:	
6			

"1. The following Advisory Groups	"1. The following Advisory Groups	"1. The following Advisory Groups	
shall provide the Management Board	shall provide the Management Board	shall provide the Management Board	
with expertise relating to large-scale	with expertise relating to large-scale	with expertise relating to large-scale	
IT systems and, in particular, in the	IT systems and, in particular, in the	IT systems and, in particular, in the	
context of the preparation of the	context of the preparation of the	context of the preparation of the	
annual work programme and the	annual work programme and the	annual work programme and the	
annual activity report:	annual activity report:	annual activity report:	
(a) SIS II Advisory Group;	(a) SIS II Advisory Group;	(a) SIS II Advisory Group;	
(b) VIS Advisory Group;	(b) VIS Advisory Group;	(b) VIS Advisory Group;	
(c) Eurodac Advisory Group;	(c) Eurodac Advisory Group;	(c) Eurodac Advisory Group;	
(d) EES Advisory Group."	(d) EES Advisory Group."	(d) EES Advisory Group."	
(b) paragraph (3) is replaced by	(b) paragraph (3) is replaced by	(b) paragraph (3) is replaced by	
the following:	the following:	the following:	
"Europol and Eurojust may each	"Europol and Eurojust may each	"Europol and Eurojust may each	
appoint a representative to the SIS II	appoint a representative to the SIS II	appoint a representative to the SIS II	
Advisory Group. Europol may also	Advisory Group Europol may also	Advisory Group. Europol may also	
appoint a representative to the VIS,	appoint a representative to the VIS,	appoint a representative to the VIS,	
Eurodac and EES Advisory Groups".	Eurodac and EES Advisory Groups".	Eurodac and EES Advisory Groups".	

CHAPTER IX	CHAPTER IX	CHAPTER IX	
Final provisions	Final provisions	Final provisions	
Article 57	Article 57	Article 57	
Use of data for reporting and	Use of data for reporting and	Use of data for reporting and	
statistics	statistics	statistics	
1. The duly authorised staff of	1. The duly authorised staff of	1. The duly authorised staff of	
the competent authorities of Member	the competent authorities of Member	the competent authorities of Member	Provisionally agreed:
States, the Commission, eu-LISA	States, the Commission. eu-LISA	States, the Commission, eu-LISA and	1. The duly authorised staff of
and Frontex shall have access to	and Frontex and eu-LISA, shall have	the European Border and Coast	the competent authorities of Member
consult the following data, solely for	access to consult the following data,	Guard Agency established by	States, the Commission. eu-LISA
the purposes of reporting and	solely for the purposes of reporting	<u>Regulation (EU) 2016/1624 []</u>	and Frontex and eu-LISA, shall have
statistics without allowing for	and statistics without allowing for	shall have access to consult the	access to consult the following data,
individual identification:	individual identification or profiling	following data, solely for the	solely for the purposes of reporting
	and the duly authorised staff of the	purposes of reporting and statistics	and statistics without allowing for
	European Border and Coast Guard	without allowing for individual	individual identification and to
	Agency shall have access to consult	identification:	ensure non-discrimination as
	the following data for the purpose of		referred to in Article 9(2) or
	carrying out risk analyses and		profiling and the duly authorised
	vulnerability assessments as		staff of the European Border and
	referred to in Articles 11 and 13 of		Coast Guard Agency shall have
	Regulation (EU) 2016/1624:		access to consult the following data
			for the purpose of carrying out risk
			analyses and vulnerability
			assessments as referred to in
			Articles 11 and 13 of Regulation
(-)	(-)	(-)	(EU) 2016/1624:
(a) status information;	(a) status information;	(a) status information;	
(b) nationality, gender and date	(b) nationality, gender and date	(b) nationality, gender and date	Provisionally agreed:
of birth of the third country national;	<i>year</i> of birth of the third country	of birth of the third country national;	(b) nationality, gender and date
	national;		<i>year</i> of birth of the third country
			national;

(c) date and border crossing	(c) date and border crossing	(c) date and border crossing point	
point of the entry to a Member State	point of the entry to a Member State	of the entry to a Member State and	
and date and border crossing point of	and date and border crossing point of	date and border crossing point of the	
the exit from a Member State;	the exit from a Member State;	exit from a Member State;	
(d) the type of the travel	(d) the type of the travel	(d) the type of the travel	
document and three letter code of the	document and three letter code of the	document and three letter code of the	
issuing country;	issuing country;	issuing country;	
(e) number of overstayers	(e) number of overstayers	(e) number of overstayers	
referred to in Article 11, nationalities	referred to in Article 11, nationalities	referred to in Article 11, nationalities	
and border crossing point of entry;	and border crossing point of entry;	and border crossing point of entry;	
(f) the data entered in respect of	(f) the data entered in respect of	(f) the data entered in respect of	
any stay revoked or whose validity is	any stay revoked or whose validity is	any stay revoked or whose validity is	
extended;	extended;	extended;	
(g) the three letter code of the Member State that issued the short stay visa, {or the touring visa} if applicable;	(g) the three letter code of the Member State that issued the short stay visa, {or the touring visa} if applicable;	(g) the three letter code of the Member State that issued the [] visa, [] if applicable;	 <i>Provisionally agreed:</i> (g) the three letter code of the Member State that issued the visa, if applicable;
(h) the number of personsexempt from the requirement to give fingerprints pursuant to Article 15(2) and (3);	(h) the number of persons exempt from the requirement to give fingerprints pursuant to Article 15(2) and (3);	(h) the number of persons exemptfrom the requirement to givefingerprints pursuant to Article 15(2)and (3);	
 (i) the number of third country nationals refused entry, the nationalities of third country nationals refused entry and the type of border (land, air or sea) and the border crossing point at which entry was refused. 	 (i) the number of third country nationals refused entry, the nationalities of third country nationals refused entry and the type of border (land, air or sea) and the border crossing point at which entry was refused. 	 (i) the number of third country nationals refused entry, the nationalities of third country nationals refused entry and the type of border (land, air or sea), [] the border crossing point at which entry was refused and the grounds on which entry has been refused. 	Provisionally agreed: (i) the number of third country nationals refused entry, the nationalities of third country nationals refused entry and the type of border (land, air or sea), [] the border crossing point at which entry was refused and the grounds on which entry has been refused as

2. For the purpose of paragraph	2. For the purpose of paragraph	2. For the purpose of paragraph	Provisionally agreed:
1, eu-LISA shall establish,	1, eu-LISA shall establish,	1, eu-LISA shall establish,	2. For the purpose of paragraph
implement and host a central	implement and host a central	implement and host a central	1, eu-LISA shall establish,
repository in its technical sites	repository <i>at a central level</i> in its	repository in its technical sites	implement and host a central
containing the data referred to in	technical sites containing the data	containing the data referred to in	repository <i>at a central level</i> in its
paragraph 1 which would not allow	referred to in paragraph 1 which	paragraph 1 which would not allow	technical sites containing the data
for the identification of individuals	would not allow for the identification	for the identification of individuals	referred to in paragraph 1 which
and would allow the authorities listed	of individuals and would allow the	and would allow the authorities listed	would not allow for the identification
in paragraph 1 to obtain customisable	authorities listed in paragraph 1 to	in paragraph 1 to obtain customisable	of individuals and would allow the
reports and statistics on the entries	obtain customisable reports and	reports and statistics on the entries	authorities listed in paragraph 1 to
and exits, refusals of entry and	statistics on the entries and exits,	and exits, refusals of entry and	obtain customisable reports and
overstay of third country nationals to	refusals of entry and overstay of third	overstay of third country nationals to	statistics on the entries and exits,
improve the assessment of the risk of	country nationals to improve the	improve the assessment of the risk of	refusals of entry and overstay of third
overstay, to enhance the efficiency of	assessment of the risk of overstay, to	overstay, to enhance the efficiency of	country nationals to improve the
border checks, to help consulates	enhance the efficiency of border	border checks, to help consulates	assessment of the risk of overstay, to
processing the visa applications and	checks, to help consulates processing	processing the visa applications and	enhance the efficiency of border
to support evidence-based Union	the visa applications and to support	to support evidence-based Union	checks, to help consulates processing
migration policymaking. The	evidence-based Union migration	migration policymaking. The	the visa applications and to support
repository shall also contain daily	policymaking. The repository shall	repository shall also contain daily	evidence-based Union migration
statistics on the data referred to in	also contain daily statistics on the	statistics on the data referred to in	policymaking. The repository shall
paragraph 4. Access to the central	data referred to in paragraph 4.	paragraph 4. Access to the central	also contain daily statistics on the
repository shall be granted by means	Access to the central repository shall	repository shall be granted by means	data referred to in paragraph 4.
of secured access through S-TESTA	be granted by means of secured	of secured access through S-TESTA	Access to the central repository shall
with control of access and specific	access through S-TESTA with	with control of access and specific	be granted by means of secured
user profiles solely for the purpose of	control of access and specific user	user profiles solely for the purpose of	access through S-TESTA with
reporting and statistics.	profiles solely for the purpose of	reporting and statistics.	control of access and specific user
Detailed rules on the operation of the	reporting and statistics.	Detailed rules on the operation of the	profiles solely for the purpose of
central repository and the data		central repository and the data	reporting and statistics. Detailed
protection and security rules		protection and security rules	rules on the operation of the central
applicable to the repository shall be		applicable to the repository shall be	repository and the data protection
adopted in accordance with the		adopted in accordance with the	and security rules applicable to the
examination procedure referred to in		examination procedure referred to in	repository shall be adopted in
Article 61(2).		Article 61(2).	accordance with the examination

			procedure referred to in Article 61(2).
 3. The procedures put in place by eu-LISA to monitor the development and the functioning of the EES referred to in Article 64(1) shall include the possibility to produce regular statistics for ensuring that monitoring. 4. Every quarter, eu-LISA shall publish statistics on the EES showing in particular the number, nationality and border crossing point of entry of overstayers, of third country nationals who were refused entry, including the grounds for refusal, and of third country nationals whose stays were revoked or extended as well as the number of third country nationals exempt from the requirement to give fingerprints. 	 The procedures put in place by eu-LISA to monitor the development and the functioning of the EES referred to in Article 64(1) shall include the possibility to produce regular statistics for ensuring that monitoring. Every quarter, eu-LISA shall publish statistics on the EES showing in particular the number, nationality, <i>age, gender, duration of stay</i> and border crossing point of entry of overstayers, of third country nationals who were refused entry, including the grounds for refusal, and of third country nationals whose stays were revoked or extended as well as the number of third country nationals exempt from the requirement to give fingerprints. 	 The procedures put in place by eu-LISA to monitor the development and the functioning of the EES referred to in Article 64(1) shall include the possibility to produce regular statistics for ensuring that monitoring. Every quarter, eu-LISA shall publish statistics on the EES showing in particular the number, nationality and border crossing point of entry of overstayers, of third country nationals who were refused entry, including the grounds for refusal, and of third country nationals whose stays were revoked or extended as well as the number of third country nationals exempt from the requirement to give fingerprints. 	 Provisionally agreed: 4. Every quarter, eu-LISA shall publish statistics on the EES showing in particular the number, nationality, age, gender, duration of stay and border crossing point of entry of overstayers, of third country nationals who were refused entry, including the grounds for refusal, and of third country nationals whose stays were revoked or extended as well as the number of third country nationals exempt from the requirement to give fingerprints.
5. At the end of each year, statistical data shall be compiled in the form of quarterly statistics for that year. The statistics shall contain a breakdown of data for each Member State.	5. At the end of each year, statistical data shall be compiled in <i>an annual report</i> for that year. The statistics shall contain a breakdown of data for each Member State. <i>The</i> <i>report shall be published and</i> <i>transmitted to the European</i> <i>Parliament, to the Council, to the</i> <i>Commission, to the European Data</i>	5. At the end of each year, statistical data shall be compiled in the form of quarterly statistics for that year. The statistics shall contain a breakdown of data for each Member State.	 Provisionally agreed 5. At the end of each year, statistical data shall be compiled in <i>an annual report</i> for that year. The statistics shall contain a breakdown of data for each Member State. The report shall be published and transmitted to the European

	Protection Supervisor and to the national supervisory authorities.		Parliament, to the Council, to the Commission, <u>to the European</u> <u>Border and Coast Guard Agency</u> , to the European Data Protection Supervisor and to the national supervisory authorities.
6. At the request of the	6. At the request of the	6. At the request of the	Provisionally agreed:
Commission, eu-LISA shall provide	Commission and the European	Commission, eu-LISA shall provide	6. At the request of the
it with statistics on specific aspects	Parliament, eu-LISA shall provide	it with statistics on specific aspects	Commission, eu-LISA shall provide
related to the implementation of this	<i>them</i> with statistics on specific	related to the implementation of this	it with statistics on specific aspects
Regulation as well as the statistics	aspects related to the implementation	Regulation as well as the statistics	related to the implementation of this
pursuant to paragraph 3.	of this Regulation as well as the	pursuant to paragraph 3.	Regulation as well as the statistics
	statistics pursuant to paragraph 3.		pursuant to paragraph 3.
Article 58	Article 58	Article 58	Article 58
Costs	Costs	Costs	Costs
1. The costs incurred in	1. The costs incurred in	1. The costs incurred in	Provisionally agreed:
connection with the establishment	connection with the establishment	connection with the establishment	1. The costs incurred in
and operation of the Central System,	and operation of the Central System,	and operation of the Central System,	connection with the establishment
the Communication Infrastructure	the secure and encrypted	the Communication Infrastructure	and operation of the Central System,
and the National Uniform Interface	Communication Infrastructure and	and the National Uniform Interface	the Communication Infrastructure
shall be borne by the general budget	the National Uniform Interface shall	shall be borne by the general budget	and the National Uniform Interface,
of the Union.	be borne by the general budget of the	of the Union.	the webservice and the central
	Union.		<i>repository</i> shall be borne by the
			general budget of the Union.
2. Costs incurred by the	2. Costs incurred by the	2 Costs incurred by the	Provisionally agreed
integration of the existing national	integration of the existing national	integration of the existing national	2. Costs incurred by the
border infrastructure and the	border infrastructure and the	[] infrastructure <u>necessary for</u>	integration of the existing national
connection to the National Uniform	connection to the National Uniform	border check and the connection to	border infrastructure and the
Interface as well as by hosting the	Interface as well as by hosting the	the National Uniform Interface as	connection to the National Uniform
National Uniform Interface shall be	National Uniform Interface shall be	well as by hosting the National	Interface as well as by hosting the
borne by the general budget of the	borne by the general budget of the	Uniform Interface shall be borne by	National Uniform Interface shall be
Union.	Union.	the general budget of the Union.	borne by the general budget of the
			Union.

The following costs shall be	The following costs shall be	The following costs shall be	
excluded:	excluded:	excluded:	
(a) Member States' project	(a) Member States' project	(a) Member States' project	
management office (meetings,	management office (meetings,	management office (meetings,	
missions, offices);	missions, offices);	missions, offices);	
(b) hosting of national systems	(b) hosting of national systems	(b) hosting of national systems	 Provisionally agreed: (b) hosting of national IT systems (space, implementation, electricity, cooling);
(space, implementation, electricity,	<i>and border infrastructures</i> (space,	(space, implementation, electricity,	
cooling);	implementation, electricity, cooling);	cooling);	
(c) operation of national systems (operators and support contracts);	(c) operation of national systems <i>and border infrastructures</i> (operators and support contracts);	(c) operation of national systems (operators and support contracts);	Provisionally agreed: (c) operation of national IT systems (operators and support contracts);
(d) customisation of existing border control and policing systems for national entry-exit systems;	(d) customisation of existing border control and policing systems for national entry-exit systems;	(d) customisation of existing border <u>check []</u> and policing systems for national entry-exit systems;	<i>Provisionally agreed:</i> (d) customisation of existing border <u>check []</u> and policing systems for national entry-exit systems;
(e) project management of national entry-exit systems;	(e) project management of national entry-exit systems;	(e) project management of national entry-exit systems;	
(f) design, development,	(f) design, development,	(f) design, development,	
implementation, operation and	implementation, operation and	implementation, operation and	
maintenance of national	maintenance of national	maintenance of national	
communication networks;	communication networks;	communication networks;	
(g) Automatic Border Control	(g) Automatic Border Control	(g) Automatic Border Control	
systems, self-service systems and e-	systems, self-service systems and e-	systems, self-service systems and e-	
gates.	gates.	gates.	
3. The costs incurred by the	3. The costs incurred by the	3. The costs incurred by the	 Provisionally agreed: 3. The costs incurred by the central access points as referred to in article 26 and 27 shall be borne by each Member State and Europol,
central access points and the costs for	central access points and the costs for	central access points <u>as referred to in</u>	
their connection to the National	their connection to the National	<u>article 26 and 27 shall be borne by</u>	
Uniform Interface shall be borne by	Uniform Interface shall be borne by	<u>each Member State and Europol,</u>	
each Member State.	each Member State.	<u>respectively. [] The costs for</u>	

		the[] connection of these central	respectively. [] The costs for
		access points to the National	the[] connection of these central
		Uniform Interface and to the EES	access points to the National
		shall be borne by each Member State	Uniform Interface and to the EES
		and Europol, respectively.	shall be borne by each Member State
			and Europol, respectively.
4. Each Member State and	4. Each Member State and	4. Each Member State and	Provisionally agreed:
Europol shall set up and maintain at	Europol shall set up and maintain at	Europol shall set up and maintain at	4. Each Member State and
their expense the technical	their expense the technical	their expense the technical	Europol shall set up and maintain at
infrastructure necessary to implement	infrastructure necessary to implement	infrastructure necessary to implement	their expense the technical
Article 5(2) and shall be responsible	Article 5(2) and shall be responsible	Article $[\ldots]$ and shall be	infrastructure necessary to implement
for bearing the costs resulting from	for bearing the costs resulting from	responsible for bearing the costs	Article [] <u>1(2)</u> Chapter IV and shall
access to the EES for that purpose.	access to the EES for that purpose.	resulting from access to the EES for	be responsible for bearing the costs
		that purpose.	resulting from access to the EES for
			that purpose.
Article 59	Article 59	Article 59	
Notifications	Notifications	Notifications	
1. Member States shall notify	1. Member States shall notify	1. Member States shall notify	
the Commission of the authority	the Commission of the authority	the Commission of the authority	
which is to be considered as	which is to be considered as	which is to be considered as	
controller referred to in Article 49.	controller referred to in Article 49.	controller referred to in Article 49.	
2. Member States shall notify	2. Member States shall notify	2. Member States shall notify	Provisionally agreed:
eu-LISA of the competent authorities	eu-LISA of the competent authorities	eu-LISA of the competent authorities	2. Member States shall notify
referred to in Article 8 which have	referred to in Article 8 which have	referred to in Article 8 which have	the Commission and eu-LISA of the
access to enter, amend, delete,	access to enter, amend, delete,	access to enter, amend, delete,	competent authorities referred to in
consult or search data.	consult or search data.	consult or search data.	Article 8 which have access to enter,
			amend, delete, consult or search data.
			Within three months after the EES
			has started operations in
			accordance with Article 60, a
			consolidated list of those authorities
			shall be published in the Official
			Journal of the European Union in

			accordance with paragraph 6. Member States shall also notify without delay any amendments thereto.
3. Member States shall notify	3. Member States shall notify	3. Member States shall notify	 <i>Provisionally agreed:</i> 3. Member States shall notify
the Commission of their designated	the Commission of their designated	the Commission <u>and eu-LISA</u> of	the Commission <u>and eu-LISA</u> of
authorities and of their central access	authorities and of their central access	their designated authorities and of	their designated authorities and of
points referred to in Article 26 and	points referred to in Article 26 and	their central access points referred to	their central access points referred to
shall notify without delay any	shall notify without delay any	in Article 26 and shall notify without	in Article 26 and shall notify without
amendments thereto.	amendments thereto.	delay any amendments thereto.	delay any amendments thereto.
4. Europol shall notify the	4. Europol shall notify the	4. Europol shall notify the	 <i>Provisionally agreed:</i> 4. Europol shall notify the
Commission of its designated	Commission of its designated	Commission <u>and eu-LISA</u> of its	Commission <u>and eu-LISA</u> of its
authority and its central access point	authority and its central access point	designated authority and its central	designated authority and its central
referred to in Article 27 and shall	referred to in Article 27 and shall	access point referred to in Article 27	access point referred to in Article 27
notify without delay any	notify without delay any	and shall notify without delay any	and shall notify without delay any
amendments thereto.	amendments thereto.	amendments thereto.	amendments thereto.
5. eu-LISA shall notify the	5. eu-LISA shall notify the	5. eu-LISA shall notify the	
Commission of the successful	Commission of the successful	Commission of the successful	
completion of the test referred to in	completion of the test referred to in	completion of the test referred to in	
Article 60(1)(b).	Article 60(1)(b).	Article 60(1)(b).	
6. Commission shall make the information notified pursuant to paragraph 1 available to the Member States and the public by a constantly updated public website.	6. The Commission shall make publish the information notified pursuant referred to paragraph in paragraphs 1 to 4 in the Official Journal of the European Union. Where there are amendments thereto, the Commission shall publish once a year an updated consolidated version of this information. The Commission shall maintain available to the Member	6. Commission shall make the information notified pursuant to paragraph 1 available to the Member States and the public by a constantly updated public website.	See also deletion in Article 8(2) Provisionally agreed: 6. The Commission shall make publish the information notified pursuant referred to paragraph in paragraphs 1 to 4 in the Official Journal of the European Union. Where there are amendments thereto, the Commission shall publish once a year an updated consolidated version of this

	States and the public by a constantly updated public website <i>containing this information</i> .		<i>information. The Commission shall</i> <i>maintain</i> available to the Member States and the public by a constantly updated public website <i>containing</i> <i>this information</i> .
		<u>6a.</u> <u>The Commission shall</u>	Covered by para 6 above. Deletion
		publish the information referred to in	provisionally agreed.
		paragraphs 3 and 4 in the Official	
		Journal of the European Union on an	
		annual basis and via an electronic	
		publication that shall be available	
		online and updated without delay.	
Article 60	Article 60	Article 60	
Start of operations	Start of operations	Start of operations	
1. The Commission shall	1. The Commission shall	1. The Commission shall	
determine the date from which the	determine the date from which the	determine the date from which the	
EES is to start operations, after the	EES is to start operations, after the	EES is to start operations, after the	
following conditions are met:	following conditions are met:	following conditions are met:	
(a) the measures referred to in	(a) the measures referred to in	(a) the measures referred to in	
Article 33 have been adopted;	Article 33 have been adopted;	Article 33 have been adopted;	
(b) eu-LISA has declared the	(b) eu-LISA has declared the	(b) eu-LISA has declared the	
successful completion of a	successful completion of a	successful completion of a	
comprehensive test of the EES,	comprehensive test of the EES,	comprehensive test of the EES,	
which shall be conducted by eu-	which shall be conducted by eu-	which shall be conducted by eu-	
LISA in cooperation with the	LISA in cooperation with the	LISA in cooperation with the	
Member States;	Member States;	Member States;	
(c) the Member States have	(c) the Member States have	(c) the Member States have	
validated the technical and legal	validated the technical and legal	validated the technical and legal	
arrangements to collect and transmit	arrangements to collect and transmit	arrangements to collect and transmit	
the data referred to in Articles 14 to	the data referred to in Articles 14 to	the data referred to in Articles 14 to	
18 to the EES and have notified them	18 to the EES and have notified them	18 to the EES and have notified them	
to the Commission;	to the Commission;	to the Commission;	

(d) the Member States have	(d) the Member States have	(d) the Member States have	
completed the notifications to the	completed the notifications to the	completed the notifications to the	
Commission referred to in Article 59	Commission referred to in Article 59	Commission referred to in Article 59	
(1) and (3).	(1) and (3).	(1) and (3).	
		<u>1a.</u> <u>The EES shall be operated</u>	<u>1a.</u> <u>The EES shall be operated</u>
		by:	by:
		a) the Member States which	a) the Member States which
		apply Schengen acquis in full, and	apply Schengen acquis in full, and
		b) the Member States which do	b) the Member States which do
		not yet apply Schengen acquis in full,	not yet apply Schengen acquis in full,
		but for which all the following	but for which all the following
		conditions are met:	conditions are met:
		(i) the verification in accordance	(i) the verification in accordance
		with applicable Schengen evaluation	with applicable Schengen evaluation
		procedures has been successfully	procedures has been successfully
		completed,	completed,
		(ii) the provisions of the	(ii) the provisions of the
		Schengen acquis relating to the	Schengen acquis relating to the
		Schengen Information System have	Schengen Information System have
		been put into effect in accordance	been put into effect in accordance
		with the relevant Accession Treaty,	with the relevant Accession Treaty,
		and	and
		(iii) the relevant provisions of the	(iii) the relevant provisions of the
		Schengen acquis relating to the Visa	Schengen acquis relating to the Visa
		information system which are	information system which are
		necessary for the operation of the	necessary for the operation of the
		EES as defined in this Regulation	EES as defined in this Regulation
		have been put into effect in	have been put into effect in
		accordance with the relevant	accordance with the relevant
		Accession Treaty.	Accession Treaty.
		<u>1b.</u> <u>A Member State which is not</u>	<u>1b.</u> <u>A Member State which is not</u>
		covered by paragraph 1a, shall be	covered by paragraph 1a, shall be

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		connected to the EES as soon as the	connected to the EES as soon as the
		conditions referred to in paragraph	conditions referred to in paragraph
		1(b), (c), (d) and paragraph 1a(b) are	1(b), (c), (d) and paragraph 1a(b) are
		met. The Commission shall	met. The Commission shall
		determine the date from which the	determine the date from which the
		EES is to start the operations in that	EES is to start the operations in that
		Member State.	Member State.
2. The Commission shall inform	2. The Commission shall inform	2. The Commission shall inform	
the European Parliament and the	the European Parliament and the	the European Parliament and the	
Council of the results of the test	Council of the results of the test	Council of the results of the test	
carried out pursuant to point (b) of	carried out pursuant to point (b) of	carried out pursuant to point (b) of	
paragraph 1.	paragraph 1.	paragraph 1.	
3. The Commission decision	3. The Commission decision	3. The Commission decision	3. The Commission decision
referred to in paragraph 1 shall be	referred to in paragraph 1 shall be	referred to in paragraph 1 and 1b	referred to in paragraph 1 and 1b
published in the <i>Official Journal</i> .	published in the Official Journal.	shall be published in the <i>Official</i>	shall be published in the <i>Official</i>
published in the Official Journal.	puolisited in the Official Journal.	Journal.	Journal.
4. The Member States and	4. The Member States and	4. The Member States and	4. The Member States and
Europol shall start using the EES	Europol shall start using the EES	Europol shall start using the EES	Europol shall start using the EES
from the date determined by the	from the date determined by the	from the date determined by the	from the date determined by the
Commission in accordance with	Commission in accordance with	Commission in accordance with	Commission in accordance with
paragraph 1.	paragraph 1.	paragraph 1 or where applicable with	paragraph 1 or where applicable with
		paragraph 1b.	paragraph 1b.
			Presidency drafting suggestion
			Article 60a
			Ceuta and Melilla
			The provisions of this Regulation
			shall not affect the special rules
			applying to the cities of Ceuta and
			Melilla, as defined in the
			Declaration of the Kingdom of
			Spain on the cities of Ceuta and
			Melilla in the Final Act to the

			Kingdom of Spain to the Convention implementing the Schengen Agreement of 14 June 1985.
Article 61	Article 61	Article 61	
Committee procedure	Committee procedure	Committee procedure	
1. The Commission shall be	1. The Commission shall be	1. The Commission shall be	
assisted by a committee. That	assisted by a committee. That	assisted by a committee. That	
committee shall be a committee	committee shall be a committee	committee shall be a committee	
within the meaning of Regulation	within the meaning of Regulation	within the meaning of Regulation	
(EU) No 182/2011.	(EU) No 182/2011.	(EU) No 182/2011.	
2. Where reference is made to	2. Where reference is made to	2. Where reference is made to	
this paragraph, Article 5 of	this paragraph, Article 5 of	this paragraph, Article 5 of	
Regulation (EU) No 182/2011 shall	Regulation (EU) No 182/2011 shall	Regulation (EU) No 182/2011 shall	
apply.	apply.	apply.	
Article 62	Article 62	Article 62	
Advisory group	Advisory group	Advisory group	
An Advisory Group shall be	An Advisory Group shall be	An Advisory Group shall be	Provisionally agreed:
established by eu-LISA and provide	established by eu-LISA and provide	established by eu-LISA and provide	An Advisory Group shall be
it with the expertise related to the	it with the expertise related to the	it with the expertise related to the	established by eu-LISA and provide
EES in particular in the context of	EES in particular in the context of	EES in particular in the context of	it with the expertise related to the
the preparation of its annual work	the preparation of its annual work	the preparation of its annual work	EES in particular in the context of
programme and its annual activity	programme and its annual activity	programme and its annual activity	the preparation of its annual work
report.	report.	report. During the design and	programme and its annual activity
		development phase, Article 34(2)	report. During the design and
		applies.	development phase, Article 34(2)
			applies.
Article 63	Article 63	Article 63	
Training	Training	Training	
eu-LISA shall perform tasks related	eu-LISA shall perform tasks related	eu-LISA shall perform tasks related	Provisionally agreed:
to providing training on the technical	to providing training on the technical	to providing training on the technical	eu-LISA shall perform tasks related
use of the EES.	use of the EES.	use of the EES in accordance with	to providing training on the technical
		the relevant provisions in Regulation	use of the EES in accordance with

		1077/2011.	the relevant provisions in Regulation
		<u>1011/2011</u> .	1077/2011.
		Article 63a	Article 63a
		Practical Handbook	Practical Handbook
		The Commission shall, in close	Provisionally agreed:
		cooperation with the Member States,	The Commission shall, in close
		eu-LISA and other relevant agencies,	cooperation with the Member States,
		make available a practical handbook	eu-LISA and other relevant agencies,
		for the implementation and	make available a practical handbook
		management of the EES. The	for the implementation and
		Handbook shall provide technical	management of the EES. The
		and operational guidelines,	Handbook shall provide technical
		recommendations and best practices.	and operational guidelines,
		The Commission shall adopt the	recommendations and best practices.
		Handbook in the form of a	The Commission shall adopt the
			Handbook in the form of a
		recommendation.	recommendation.
Article 64	Article 64	Article 64	<u>recommendation.</u>
Monitoring and evaluation	Monitoring and evaluation	Monitoring and evaluation	
1. eu-LISA shall ensure that	1. eu-LISA shall ensure that	1. eu-LISA shall ensure that	
procedures are in place to monitor	procedures are in place to monitor	procedures are in place to monitor	
the development of the EES in light	the development of the EES in light	the development of the EES in light	
of objectives relating to planning and	of objectives relating to planning and	of objectives relating to planning and	
costs and to monitor the functioning	costs and to monitor the functioning	costs and to monitor the functioning	
of the EES in light of objectives	of the EES in light of objectives	of the EES in light of objectives	
relating to the technical output, cost-	relating to the technical output, cost-	relating to the technical output, cost-	
effectiveness, security and quality of	effectiveness, security and quality of	effectiveness, security and quality of	
service.	service.	service.	
2. By [Six months after the entry	2. By [Six months after the entry	2. By [Six months after the entry	Provisionally agreed:
into force of this Regulation –	into force of this Regulation –	into force of this Regulation –	2. By [Six months after the entry
OPOCE, please replace with the	OPOCE, please replace with the	OPOCE, please replace with the	into force of this Regulation –
actual date] and every six months	actual date] and every six months	actual date] and every six months	OPOCE, please replace with the
thereafter during the development	thereafter during the development	thereafter during the development	actual date] and every six months

phase of the EES, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of the Central System, the Uniform Interfaces and the Communication Infrastructure between the Central System and the Uniform Interfaces. 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.	phase of the EES, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of the Central System, the Uniform Interfaces and the <i>secure and</i> <i>encrypted</i> Communication Infrastructure between the Central System and the Uniform Interfaces. <i>This report shall contain detailed</i> <i>information about the costs</i> <i>incurred and information as to any</i> <i>risks which may impact on the</i> <i>overall costs of the system</i> . 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.	phase of the EES, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of the Central System, the Uniform Interfaces and the Communication Infrastructure between the Central System and the Uniform Interfaces. 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.	thereafter during the development phase of the EES, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of the Central System, the Uniform Interfaces and the Communication Infrastructure between the Central System and the Uniform Interfaces. <i>This report shall contain detailed</i> <i>information about the costs</i> <i>incurred and information as to any</i> <i>risks which may impact on the</i> <i>overall costs of the system <u>to be</u> <u>borne by the general budget of the</u> <u>Union in accordance with Article</u> <u>58(1) and (2) first subparagraph</u>. 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.</i>
 For the purposes of technical maintenance, eu-LISA shall have access to the necessary information relating to the data processing operations performed in the EES. Two years after the start of operations of the EES and every two years thereafter, eu-LISA shall submit to the European Parliament, 	 For the purposes of technical maintenance, eu-LISA shall have access to the necessary information relating to the data processing operations performed in the EES. Two years after the start of operations of the EES and every two years thereafter, eu-LISA shall submit to the European Parliament, 	 For the purposes of technical maintenance, eu-LISA shall have access to the necessary information relating to the data processing operations performed in the EES. Two years after the start of operations of the EES and every two years thereafter, eu-LISA shall submit to the European Parliament, 	

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the Council and the Commission a	the Council and the Commission a	the Council and the Commission a	
report on the technical functioning of	report on the technical functioning of	report on the technical functioning of	
EES, including the security thereof.	EES, including the security thereof.	EES, including the security thereof.	
5. Three years after the start of	5. Three years after the start of	5. Three years after the start of	Compromise proposal:
operations of the EES and every four	operations of the EES and every four	operations of the EES and every four	
years thereafter, the Commission	years thereafter, the Commission	years thereafter, the Commission	Three years after the start of
shall produce an overall evaluation of	shall produce an overall evaluation of	shall produce an overall evaluation of	operations of the EES and every four
the EES. This overall evaluation	the EES. This overall evaluation	the EES. This overall evaluation shall	years thereafter, the Commission
shall include an examination of	shall include an examination of	include an assessment of the	shall produce an overall evaluation of
results achieved against objectives	results achieved against objectives	application of the Regulation; an	the EES. This overall evaluation
and the impact on fundamental	and the impact on fundamental	examination of results achieved	shall include:
rights, and assessing the continuing	rights, and assessing the continuing	against objectives and the impact on	(a) an assessment of the
validity of the underlying rationale,	validity of the underlying rationale,	fundamental rights []; [] an	application of the Regulation;
the application of the Regulation, the	the application of the Regulation, the	assessment of the continuing validity	(b) an examination of results
security of the EES and any	security of the EES and any	of the underlying rationale, of the	achieved against objectives and the
implications on future operations,	implications <i>including those with a</i>	adequacy of the biometric data	impact on fundamental rights;
and shall make any necessary	budgetary impact on future	required for the proper functioning of	(c) an assessment of the
recommendations. The Commission	operations, and shall make any	the EES, of the use of stamps in the	continuing validity of the underlying
shall transmit the evaluation report to	necessary recommendations. The	exceptional circumstances referred to	rationale;
the European Parliament and the	Commission shall transmit the	under Article 19(2), of the practical	(d) an assessment of the
Council.	evaluation report to the European	implications of the application of	adequacy of the biometric data used
	Parliament, and the the Council, the	Article 54, [] of the security of the	for the proper functioning of the
	European Data Protection	EES and <u>of any implications on</u>	EES;
	Supervisor and the European	future operations. The evaluation	(e) an assessment of the use of
	Agency for Fundamental Rights.	[] shall <u>include [</u>] any necessary	stamps in the exceptional
		recommendations. The Commission	circumstances referred to under
		shall transmit the evaluation report to	Article 19(2);
		the European Parliament and the	(f) an assessment of the security
		Council.	of the EES;
			(fg) an assessment of the use
			made of the provisions referred to
			in Article 54 both in terms of
			frequency and practical

	implications while taking into
	account any related developments
	in the Union's visa policy.
	Following the outcome of this
	assessment, the Commission shall,
	if it considers it necessary, submit
	to the European Parliament and
	the Council appropriate proposals
	or recommendations.
	(h) an assessment of any
	implications, including on the
	waiting time at border crossing
	points and those with a budgetary
	impact on the Union budget
	impact on the childhounger
	The evaluation shall include any
	necessary recommendations. The
	Commission shall transmit the
	evaluation report to the European
	Parliament, the Council, the
	, , ,
	European Data Protection Supervisor
	and the European Agency for
	Fundamental Rights.
	The evaluation shall also include an
	assessment of the use made of the
	provisions referred to in Article 54
	both in terms of frequency (number
	of third country nationals making
	use of these provisions per
	Member State, their nationality,
	average duration of their stay) and
	practical implications, as well as

			taking into account any related developments in the Union's visa policy. The first evaluation report may include options in view of phasing out the provisions referred to in Article 54 and replacing them with a Union instrument. The evaluation shall be accompanied, if appropriate, by a legislative proposal amending the provisions of Article 20(2) of the Convention Implementing the Schengen Agreement.
6. The Member States and Europol shall provide eu-LISA and	6. The Member States and Europol shall provide eu-LISA and	6. The Member States and Europol shall provide eu-LISA and	
the Commission with the information	the Commission with the information	the Commission with the information	
necessary to draft the reports referred	necessary to draft the reports referred	necessary to draft the reports referred	
to in paragraphs 4 and 5 according to	to in paragraphs 4 and 5 according to	to in paragraphs 4 and 5 according to	
the quantitative indicators predefined	the quantitative indicators predefined	the quantitative indicators predefined	
by the Commission and/or eu-LISA .	by the Commission and/or eu-LISA.	by the Commission and/or eu-LISA.	
This information shall not jeopardise	This information shall not jeopardise	This information shall not jeopardise	
working methods or include	working methods or include	working methods or include	
information that reveals sources, staff	information that reveals sources, staff	information that reveals sources, staff	
members or investigations of the	members or investigations of the	members or investigations of the	
designated authorities.	designated authorities.	designated authorities.	
7. eu-LISA shall provide the	7. eu-LISA shall provide the	7. eu-LISA shall provide the	
Commission with the information	Commission with the information	Commission with the information	
necessary to produce the overall	necessary to produce the overall	necessary to produce the overall	
evaluations referred to in	evaluations referred to in	evaluations referred to in paragraph	
paragraph 5.	paragraph 5.	5.	
8. While respecting the	8. While respecting the	8. While respecting the	
provisions of national law on the	provisions of national law on the	provisions of national law on the	Provisionally agreed:
publication of sensitive information,	publication of sensitive information,	publication of sensitive information,	8. While respecting the

each Member State and Europol shall prepare annual reports on the effectiveness of access to EES data for law enforcement purposes containing information and statistics on:	each Member State and Europol shall prepare annual reports on the effectiveness of access to EES data for law enforcement purposes containing information and statistics on:	each Member State and Europol shall prepare annual reports on the effectiveness of access to EES data for law enforcement purposes containing [] statistics on:	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 EES data for law enforcement purposes containing information and statistics on:
 (a) - the exact purpose of the consultation (whether for identification or for entry/exit records) including the type of terrorist or serious criminal offence; 	 (a) - the exact purpose of the consultation (whether for identification or for entry/exit records) including the type of terrorist or serious criminal offence; 	(a) []whether <u>the consultation</u> was made for the purpose of identification or for entry/exit records, <u>and []</u> the type of terrorist or serious criminal offence;	Provisionally agreed:(a) []whether the consultationwas made for the purpose ofidentification or for entry/exitrecords, and [] the type of terroristor serious criminal offence;
(b) - reasonable grounds given for the substantiated suspicion that the suspect, perpetrator or victim is covered by this Regulation;	(b) - reasonable grounds given for the substantiated suspicion that the suspect, perpetrator or victim is covered by this Regulation;	(b) [] <u>the</u> grounds given <u>to</u> [] substantiate <u>the</u> suspicion that the [] <u>person concerned</u> is covered by this Regulation;	 Provisionally agreed: (b) [] the grounds given to [] substantiate the suspicion that the [] person concerned is covered by this Regulation;
(c) - the reasonable grounds given not to conduct consultation of other Member States' automated fingerprint identification systems under Decision 2008/615/JHA in accordance with Article 29(2)(b);	(c) - the reasonable grounds given not to conduct consultation of other Member States' automated fingerprint identification systems under Decision 2008/615/JHA in accordance with Article 29(2)(b);	(c) the [] grounds given not to [] launch the consultation of other Member States' automated fingerprint identification systems under Decision 2008/615/JHA in accordance with Article 29(2)(b);	Provisionally agreed: (c) the [] grounds given not to [] launch the consultation of other Member States' automated fingerprint identification systems under Decision 2008/615/JHA in accordance with Article 29(2)(b);
 (d) - the number of requests for access to the EES for law enforcement purposes; (e) - the number and type of cases which have ended in successful identifications; 	 (d) - the number of requests for access to the EES for law enforcement purposes; (e) - the number and type of cases which have ended in successful identifications; 	 (d) the number of requests for access to the EES for law enforcement purposes; (e) the number and type of cases in which access to the EES for law enforcement purposes led to [] successful identifications; 	Provisionally agreed: (e) the number and type of cases <u>in</u> which <u>access to the EES for law</u> enforcement purposes led to []

			successful identifications;
(f) - the need and use made of	(f) - the need and use made of	(f) the [] <u>number and type of</u>	Provisionally agreed:
the exceptional case of urgency	the exceptional case of urgency	cases in which the urgency procedure	(f) the [] <u>number and type of</u>
including those cases where that	including those cases where that	was used, including those cases	cases in which the urgency procedure
urgency was not accepted by the ex	urgency was not accepted by the ex	where that urgency was not accepted	was used, including those cases
post verification carried out by the	post verification carried out by the	by the ex post verification carried out	where that urgency was not accepted
central access point.	central access point.	by the central access point.	by the ex post verification carried out
			by the central access point.
	(fa) the number of requests for		See under Articles 49(2) and 52(4)
	corrections of data, the action		
	subsequently taken and the number		
	of corrections made in response to		
	requests by the persons concerned		
Member States' and Europol's	Member States' and Europol's	eu-LISA shall draw up templates to	Provisionally agreed:
annual reports shall be transmitted to	annual reports shall be transmitted to	facilitate collection of the	eu-LISA shall draw up templates to
the Commission by 30 June of the	the Commission by 30 June of the	information in this paragraph. These	<u>facilitate collection of the</u>
subsequent year.	subsequent year.	templates shall be available to the Member States.	information in this paragraph. These templates shall be available to the
		Member States' and Europol's	Member States.
		annual reports shall be transmitted to	Member States' and Europol's
		the Commission by 30 June of the	annual reports shall be transmitted to
		subsequent year.	the Commission by 30 June of the
		subsequent year.	subsequent year.
			Drafting suggestion to replace the
			<i>text above:</i>
			A technical solution shall be made
			available to Member States in order
			to facilitate the collection of this data
			pursuant to Chapter IV for the
			purpose of generating statistics
			referred to in this paragraph. The
	\bigvee		specifications shall be adopted by the

			Commission by means of implementing acts in accordance with the examination procedure referred to in Article 61(2).
Article 65Entry into force and applicabilityThis Regulation shall enter into forceon the twentieth day following thatof its publication in the OfficialJournal of the European Union. ThisRegulation shall be binding in itsentirety and directly applicable in theMember States in accordance withthe Treaties.	Article 65 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 apply from the date determined by the Commission in accordance with Article 60, with the exception of Articles 4, 33, 34, 35, 56, 58, 59, 60 and 61, which shall apply from the date of entry into force of this Regulation. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.	Article 65 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.	Underlying principle of EP amendment agreed; to check which Articles needs to be mentioned
Done at Brussels,	Done at Brussels,	Done at Brussels,	
For the EPFor the CouncilThe PresidentThe President	For the EP For the Council The President The President	For the EPFor the CouncilThe PresidentThe President	

ANNEX I	ANNEX I	ANNEX I	
List of international organisations	List of international organisations	[] <u>International organisations[]</u>	Council to check withdrawal of its
referred to in Article 38(2)	referred to in Article 38(2)	authorised to request data under	amendment
referred to in Article 38(2)	referred to in Article 36(2)	Article 38(2)	Provisionally agreed:
		Article 30(2)	List of international organisations
			referred to in Article 38(2)
1. UN organisations (such as	1. UN organisations (such as	1. UN organisations (such as	Teleffed to in Article 56(2)
UNHCR);	UNHCR);	UNHCR);	
2. International Organization for	2. International Organization for	2. International Organization for	
Migration (IOM);	Migration (IOM);	Migration (IOM);	
3. The International Committee	3. The International Committee	3. The International Committee	
of the Red Cross.	of the Red Cross.	of the Red Cross.	
of the Red Closs.	of the red Closs.	ANNEX II	Provisionally agreed:
		ANNEA II	ANNEX II
		The specific provisions for third	Provisionally agreed:
		country nationals who perform their	The specific provisions for third
		border crossing on the basis of a	country nationals who perform their
		valid Facilitated Transit Document	border crossing on the basis of a
			valid Facilitated Transit Document
		(1) By way of derogation from	Provisionally agreed:
		Article 14(1) to (3) of this	(1) By way of derogation from
		Regulation, for third country	Article 14(1) to (3) of this
		nationals who perform their border	Regulation, for third country
		crossing on the basis of a valid	nationals who perform their border
		Facilitated Transit Document (FTD)	crossing on the basis of a valid
		issued in accordance with Regulation	Facilitated Transit Document (FTD)
		(EC) 693/2003, the border check	issued in accordance with Regulation
		authorities shall:	(EC) 693/2003, the border check

	authorities shall:
a) create/update their individual	Provisionally agreed:
	. 0
file which shall contain the data	<u>a)</u> <u>create/update their individual</u>
foreseen under Article 15(1) (a), (b)	file which shall contain the data
and (c) of this Regulation. In	foreseen under Article 15(1) (a), (b)
addition, their individual file shall	and (c) of this Regulation. In
indicate that the person holds a	addition, their individual file shall
Facilitated Transit Document (FTD).	indicate that the person holds a
That indication shall automatically	Facilitated Transit Document (FTD).
result in the multiple entry	That indication shall automatically
characteristic of the FTD to be added	result in the multiple entry
to the entry/exit record,	characteristic of the FTD to be added
	to the entry/exit record,
b) <u>enter in an entry/exit record</u>	Provisionally agreed:
for each of their entries performed on	b) enter in an entry/exit record
the basis of a valid Facilitated Transit	for each of their entries performed on
Document (FTD), the data listed	the basis of a valid Facilitated Transit
under Articles 14(2)(a) to (c) of this	Document (FTD), the data listed
Regulation as well as the indication	under Articles 14(2)(a) to (c) of this
that the entry was performed on the	Regulation as well as the indication
basis of an FTD.	that the entry was performed on the
In order to calculate the maximum	basis of an FTD.
duration of the transit, the date and	In order to calculate the maximum
time of entry shall be considered as	duration of the transit, the date and
the starting point of that duration.	time of entry shall be considered as
The date and time of expiry of the	the starting point of that duration.
authorised transit shall be calculated	The date and time of expiry of the
automatically by the system in	authorised transit shall be calculated
accordance with Article 3(2) of	automatically by the system in
Regulation (EC) 693/2003.	accordance with Article 3(2) of
<u></u>	Regulation (EC) 693/2003.
(2) In addition, at the first entry	Provisionally agreed:
on the basis of an FTD, the date of	(2) In addition, at the first entry
	$\underline{(2)}$ in addition, at the first entry

expiry of the validity of the FTD	on the basis of an FTD, the date of
shall be entered into the entry/exit	expiry of the validity of the FTD
record.	shall be entered into the entry/exit
	record.
$(3) \qquad Article 14(3) and (4) of this$	Provisionally agreed:
Regulation shall be applicable	(3) Article 14(3) and (4) of this
mutatis mutandis to third country	Regulation shall be applicable
nationals holding a Facilitated	mutatis mutandis to third country
Transit Document (FTD) issued in	nationals holding a Facilitated
accordance with Regulation (EC)	Transit Document (FTD) issued in
<u>693/2003.</u>	accordance with Regulation (EC)
	<u>693/2003.</u>
(4) For verification at a border at	Provisionally agreed:
which the EES is operated and within	(4) For verification at a border at
the territories of the Member States,	which the EES is operated and within
third country nationals who perform	the territories of the Member States,
their border crossing on the basis of a	third country nationals who perform
valid Facilitated Transit Document	their border crossing on the basis of a
(FTD) shall be subject mutatis	valid Facilitated Transit Document
mutandis to the verifications and	(FTD) shall be subject mutatis
identifications provided under	mutandis to the verifications and
Articles 21 and 24 of this Regulation	identifications provided under
and Articles 18 and 19a of	Articles 21 and 24 of this Regulation
Regulation (EC) No 767/2008 that	and Articles 18 and 19a of
are applicable to third country	Regulation (EC) No 767/2008 that
nationals who are not subject to a	are applicable to third country
visa requirement.	nationals who are not subject to a
	visa requirement.
(5) The provisions of paragraph 1	Provisionally agreed:
to 4 shall not apply to third country	(5) The provisions of paragraph 1
nationals who perform their border	to 4 shall not apply to third country
crossing on the basis of a valid	nationals who perform their border
Facilitated Transit Document (FTD)	crossing on the basis of a valid

	issued in accordance with Regulation (EC) 693/2003 provided that the following cumulative conditions are met:	Facilitated Transit Document (FTD) issued in accordance with Regulation (EC) 693/2003 provided that the following cumulative conditions are
	(a) they perform their transit by train;	met:Provisionally agreed:(a)they perform their transit bytrain;
	(b) they do not disembark in the territory of a Member State.	Provisionally agreed:(b)they do not disembark in theterritory of a Member State.

RG/mdc