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10545/17 ADD 2

FRONT 288 VISA 244 CODEC 1106 COMIX 463

NOTE

From:	Presidency
То:	Permanent Representatives Committee/Mixed Committee
No. prev. doc.:	6960/17
Subject:	Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 2016/399 as regards the use of the Entry/Exit System

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

10545/17 ADD 2 RG/mdc DG D 1A **EN**

4–column table on the **Regulation of the European Parliament and of the Council amending Regulation (EU) No 2016/399 as regards the use of the Entry/Exit System** 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 does not include the square brackets</u> (which are in blue) "Nothing is agreed until everything is agreed" remains the basic principle.
 - text provisionally agreed but not yet confirmed at technical level or pending compromise proposals have no colour.
 - Presidency proposals in red

For Article 8, an additional column reports the text currently into force following the adoption of Regulation (EU) 2017/458. The rows in grey are not modified by the present draft amending Regulation.

At the trilogue on 29 June 2017, the deletion of Article 8a and 8b, as well as the additional paragraph 9 in Article 8d will be discussed. The proposed way forward for these provisions is marked in red.

10545/17 ADD 2 RG/mdc 1

DG D 1A EN

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 2016/399 as regards the use of the **Entry/Exit System**

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 on the	Having regard to the Treaty on the	Having regard to the Treaty on the	
Functioning of the European Union,	Functioning of the European Union,	Functioning of the European Union,	
and in particular Articles 77(2)(b)	and in particular Articles 77(2)(b)	and in particular Articles 77(2)(b)	
thereof,	thereof,	thereof,	
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,	
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	
parliaments,	parliaments,	parliaments,	
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	
Committee,	Committee	Committee,	
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,	Committee of the Regions,	Committee of the Regions,	
Acting in accordance with the	Acting in accordance with the	Acting in accordance with the	
ordinary legislative procedure,	ordinary legislative procedure,	ordinary legislative procedure,	
Whereas:	Whereas:	Whereas:	
(1) Regulation (EU) 2016/399 of	(1) Regulation (EU) 2016/399 of	(1) Regulation (EU) 2016/399 of	
the European Parliament and of the	the European Parliament and of the	the European Parliament and of the	
Council of 9 March 2016 on a Union	Council of 9 March 2016 on a Union	Council of 9 March 2016 on a Union	
Code on the rules governing the	Code on the rules governing the	Code on the rules governing the	

DG D 1A

		1	
movement of persons across borders	movement of persons across borders	movement of persons across borders	
(Schengen Borders Code) ¹ lays down	(Schengen Borders Code) lays down	(Schengen Borders Code) ¹ lays down	
the conditions, criteria and detailed	the conditions, criteria and detailed	the conditions, criteria and detailed	
rules for the crossing of the external	rules for the crossing of the external	rules for the crossing of the external	
borders of the Member States.	borders of the Member States.	borders of the Member States.	
(2) [Regulation (EU) N° XXX of	(2) [Regulation (EU) N° XXX of/	(2) [Regulation (EU) N° XXX of	
the European Parliament and of the	the European Parliament and of the	the European Parliament and of the	
Council establishing the Entry/Exit	Council establishing the Entry/Exit	Council establishing the Entry/Exit	
System ('EES') to register entry and	System ('EES') to register entry and	System ('EES') to register entry and	
exit data and refusal of entry data of	exit data and refusal of entry data of	exit data and refusal of entry data of	
third country nationals crossing the	third country nationals crossing the	third country nationals crossing the	
external borders of the Member	external borders of the Member	external borders of the Member	
States of the European Union and	States of the European Union and	States of the European Union and	
determining the conditions for access	determining the conditions for access	determining the conditions for access	
to the EES for law enforcement	to the EES for law enforcement	to the EES for law enforcement	
purposes] ² aims at creating a	purposes] ² aims at creating a	purposes] ² aims at creating a	
centralised system for the registration	centralised system for the registration	centralised system for the registration	
of entry and exit data and refusal of	of entry and exit data and refusal of	of entry and exit data and refusal of	
entry data of third country nationals	entry data of third country nationals	entry data of third country nationals	
crossing the external borders of the	crossing the external borders of the	crossing the external borders of the	
Member States of the Union for a	Member States of the Union for a	Member States of the Union for a	
short stay [or for a stay on the basis	short stay [or for a stay on the basis	short stay [].	
of a touring visa].	of a touring visa].	-	
(3) In order to carry out checks	(3) In order to carry out checks	(3) In order to carry out checks	
on third country nationals pursuant to	on third country nationals pursuant to	on third country nationals pursuant to	
Regulation (EU) 2016/399, which	Regulation (EU) 2016/399, which	Regulation (EU) 2016/399, which	
include the verification of the	include the verification of the	include the verification of the	
identity and/ or the identification of	identity and/ or the identification of	identity and/ or the identification of	
the third country national as well as	the third country national as well as	the third country national as well as	

Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (Codification) OJ L 77, 23.3.2016, p. 1.

² OJ L ...

the verification that the third country national has not exceeded the maximum duration of authorised stay in the territory of the Member States, border guards should use all the information available, including data from the EES. The data stored in that system should also be used to verify that third country nationals holding a single or double entry visa have respected the maximum number of	the verification that the third country national has not exceeded the maximum duration of authorised stay in the territory of the Member States, border guards should use all the information available, including data from the EES. The data stored in that system should also be used to verify that third country nationals holding a single or double entry visa have respected the maximum number of	the verification that the third country national has not exceeded the maximum duration of authorised stay in the territory of the Member States, border guards should use all the information available, including data from the EES, where required. The data stored in that system should also be used to verify that third country nationals holding a single or double entry visa have respected the maximum number of authorised	
authorised entries.	authorised entries.	entries. (3a) In certain cases biometric	
		data need to be provided by the third country national for the purpose of border checks. The entry conditions	
		for third country nationals should therefore be amended by the obligation to provide that biometric	
		data. If a third country national refuses to provide biometric data for the creation of the individual file or	
		for the performance of border check, a refusal of entry decisions should be adopted.	
(4) To ensure full effectiveness of the EES, entry and exit checks need to be carried out in a	(4) To ensure full effectiveness of the EES, entry and exit checks need to be carried out in a	(4) To ensure full effectiveness of the EES, entry and exit checks need to be carried out in a	
harmonised way at the external borders.	harmonised way at the external borders.	harmonised way at the [] borders at which the EES is operated.	
(5) The establishment of an EES requires adapting the procedures for	(5) The establishment of an EES requires adapting the procedures for	(5) The establishment of an EES requires adapting the procedures for	

checking persons when crossing the external borders laid down in	checking persons when crossing the external borders laid down in	checking persons when crossing the [] borders at which the EES is	
Regulation (EU) 2016/399. In	Regulation (EU) 2016/399. In	operated. []. In particular, the EES	
particular, the EES aims to abolish	particular, the EES aims to abolish	aims to abolish on entry and exit the	
on entry and exit the stamping of the	on entry and exit the stamping of the	stamping of the travel documents of	
travel documents of third country	travel documents of third country	third country nationals admitted for a	
nationals admitted for a stay [or for a	nationals admitted for a stay [or for a	short stay [] by replacing it by the	
stay on the basis of a touring visa] by	stay on the basis of a touring visa] by	electronic recording of the entry and	
replacing it by the electronic	replacing it by the electronic	exit directly in the EES. However,	
recording of the entry and exit	recording of the entry and exit	stamping of travel document on	
directly in the EES. However,	directly in the EES. However,	refusal of entry of a third country	
stamping of travel document on	stamping of travel document on	national is maintained since it	
refusal of entry of a third country	refusal of entry of a third country	concerns higher risk travellers.	
national is maintained since it	national is maintained since it	Furthermore, the establishment of the	
concerns higher risk travellers.	concerns higher risk travellers.	interoperability between the EES and	
Furthermore, the establishment of the	Furthermore, the establishment of the	the Visa Information System (VIS)	
interoperability between the EES and	interoperability between the EES and	needs to be taken into account in the	
the Visa Information System (VIS)	the Visa Information System (VIS)	border checks procedures. Lastly, the	
needs to be taken into account in the	needs to be taken into account in the	EES opens the possibility to use new	
border checks procedures. Lastly, the	border checks procedures. Lastly, the	technologies for the border crossings	
EES opens the possibility to use new	EES opens the possibility to use new	of short stay travellers.	
technologies for the border crossings	technologies for the border crossings		
of short stay travellers.	of short stay travellers.		
		(5a) The above-mentioned	Provisionally agreed
		adaptations of procedures should	(5a) The above-mentioned
		become effective in the Member	adaptations of procedures should
		States operating the EES on the date	become effective in the Member
		of entry into operation of the EES	States operating the EES on the date
		determined in accordance with the	of entry into operation of the EES
		EES Regulation (EU) N° XXX.	determined in accordance with the
		(51) D. I	EES Regulation (EU) N° XXX.
		(5b) By derogation to those	
		adaptations, during the transitional	

5 **EN** RG/mdc 10545/17 ADD 2

period pending their connection to the EES, Member State not operating the EES should continue to apply the procedures laid down in Regulation (EU) 2016/399 as they stand before the entry into force of this Regulation. Those procedures should include the maintenance of the stamping obligation and the existing procedures for check on borders, which do not include verification of the EES. For the reasons of transparency and legal certainty, those procedures should be set out in an Annex which should be added for this purpose to Regulation (EU) 2016/399. During a period of six months During a period of six months During a period of six months (6) after the EES has started operations, after the EES has started operations, after the EES has started operations, border guards should take into border guards should take into border guards should take into account the stays in the territories of account the stays in the territories of account the stays in the territories of the Member States during the six the Member States during the six the Member States during the six months preceding the entry or the months preceding the entry or the months preceding the entry or the exit by checking the stamps in the exit by checking the stamps in the exit by checking the stamps in the travel documents in addition to the travel documents in addition to the travel documents in addition to the entry/exit data recorded in the EES. entry/exit data recorded in the EES. entry/exit data recorded in the EES. Such measure should enable the Such measure should enable the Such measure should enable the required verifications to be carried required verifications to be carried required verifications to be carried out in those cases where a person out in those cases where a person out in those cases where a person would have been admitted for a short would have been admitted for a short would have been admitted for a short stay on the territory of the Member stay on the territory of the Member stay on the territory of the Member States in the six months preceding States in the six months preceding States in the six months preceding the start of operations of the EES. In the start of operations of the EES. In the start of operations of the EES. In

addition there is a need to lay down	addition there is a need to lay down	addition there is a need to lay down	
specific provisions for those persons	specific provisions for those persons	specific provisions for those persons	
having entered the territory of the	having entered the territory of the	having entered the territory of the	
Member States and who have not yet	Member States and who have not yet	Member States and who have not yet	
exited it before the entry into	exited it before the entry into	exited it before the entry into	
operations of the system. In these	operations of the system. In these	operations of the system. In these	
situations, the last entry should also	situations, the last entry should also	situations, the last entry should also	
be recorded into the EES when	be recorded into the EES when	be recorded into the EES when	
exiting the territory of the Member	exiting the territory of the Member	exiting the territory of the Member	
States.	States.	States.	
(7) Taking into account the	(7) Taking into account the	(7) Taking into account the	/
different situations in the Member	different situations in the Member	different situations in the Member	
States and at different border	States and at different border	States and at different border	
crossing points within the Member	crossing points within the Member	crossing points within the Member	
States concerning the number of third	States concerning the number of third	States concerning the number of third	
country nationals crossing the	country nationals crossing the	country nationals crossing the	
borders, Member States should be	borders, Member States should be	borders, Member States should be	
able to decide whether and to what	able to decide whether and to what	able to decide whether and to what	
extent to make use of technologies	extent to make use of technologies	extent to make use of technologies	
such as automated border control	such as automated border control	such as automated border control	
systems, "self-service kiosks" and e-	systems, "self-service kiosks" and e-	systems, "self-service kiosks" and e-	
gates. When using such technologies,	gates. When using such technologies,	gates. When using such technologies,	
it should be ensured that entry and	it should be ensured that entry and	it should be ensured that entry and	
exit checks are carried out in a	exit checks are carried out in a	exit checks are carried out in a	
harmonised way at the external	harmonised way at the external	harmonised way at the external	
borders and that an appropriate level	borders and that an appropriate level	borders and that an appropriate level	
of security is ensured.	of security is ensured.	of security is ensured.	
(8) In addition, the tasks and	(8) In addition, the tasks and	(8) In addition, the tasks and	
roles of the border guards when	roles of the border guards when	roles of the border guards when	
making use of such technologies	making use of such technologies	making use of such technologies	
need to be defined. In this regard, it	need to be defined. In this regard, it	need to be defined. In this regard, it	
should be ensured that the results of	should be ensured that the results of	should be ensured that the results of	
border checks performed through	border checks performed through	border checks performed through	

10545/17 ADD 2 RG/mdc 7 EN

automated means are available to	automated means are available to	automated means are available to	
border guards so as to enable them to	border guards so as to enable them to	border guards so as to enable them to	
take the appropriate decisions. In	take the appropriate decisions. In	take the appropriate decisions. In	
addition, there is a need to supervise	addition, there is a need to supervise	addition, there is a need to supervise	
the use of the automated border	the use of the automated border	the use of the automated border	
control systems, "self-service kiosks"	control systems, "self-service kiosks"	control systems, "self-service kiosks"	
and e-gates by travellers so as to	and e-gates by travellers so as to	and e-gates by travellers so as to	
prevent fraudulent behaviour and	prevent fraudulent behaviour and	prevent fraudulent behaviour and	
uses. In addition, when carrying out	uses. In addition, when carrying out	uses. In addition, when carrying out	
this supervision, border guards	this supervision, border guards	this supervision, border guards	
should pay particular attention to	should pay particular attention to	should pay particular attention to	
minors and should be placed in a	minors and should be placed in a	minors and should be placed in a	
position that should enable them to	position that should enable them to	position that should enable them to	
identify persons needing protection.	identify persons needing protection.	identify persons needing protection.	
(9) Member States should also be	(9) Member States should also be	(9) Member States should also be	
able to establish national facilitation	able to establish national facilitation	able to establish national facilitation	
programmes on a voluntary basis to	programmes on a voluntary basis to	programmes on a voluntary basis to	
allow pre-vetted third country	allow pre-vetted third country	allow pre-vetted third country	
nationals to benefit at entry from	nationals to benefit at entry from	nationals to benefit at entry from	
derogations to the thorough checks.	derogations to the thorough checks.	derogations to the thorough checks.	
When using such national facilitation	When using such national facilitation	When using such national facilitation	
programmes, it should be ensured	programmes, it should be ensured	programmes, it should be ensured	
that they are established in a	that they are established in a	that they are established in a	
harmonised way and that the	harmonised way and that the	harmonised way and that the	
appropriate level of security is	appropriate level of security is	appropriate level of security is	
guaranteed.	guaranteed.	guaranteed.	
(10) This Regulation is without	(10) This Regulation is without	(10) This Regulation is without	
prejudice to the application of	prejudice to the application of	prejudice to the application of	
Directive 2004/38/EC of the	Directive 2004/38/EC of the	Directive 2004/38/EC of the	

European Parliament and of the	European Parliament and of the	European Parliament and of the	
Council ³ .	Council ³ .	Council ³ .	
Council .	- Comitin	(10a) The European Data	
		Protection Supervisor was consulted	
		in accordance with Article 28(2) of	
		Regulation (EC) No 45/2001 and	
		delivered an opinion on 21	
		September 2016.	
(11) Since the objective of this	(11) Since the objective of this	(11) Since the objective of this	
Regulation, namely to provide for	Regulation, namely to provide for	Regulation, namely to provide for	
amendments to the existing rules of	amendments to the existing rules of	amendments to the existing rules of	
Regulation (EU) 2016/399 can only	Regulation (EU) 2016/399 can only	Regulation (EU) 2016/399 can only	
be achieved at Union level, the	be achieved at Union level, the	be achieved at Union level, the	
Union may adopt measures in	Union may adopt measures in	Union may adopt measures 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 also set out in that	proportionality, as also set out in that	proportionality, as also set out in that	
Article, this Regulation does not go	Article, this Regulation does not go	Article, this 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.	
(12) In accordance with Articles 1	(12) In accordance with Articles 1	(12) 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	

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 (OJ L 158, 30.4.2004, p. 77).

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.	
(13) This Regulation constitutes a	(13) This Regulation constitutes a	(13) 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> 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/EC ⁴ ; the United Kingdom	2000/365/EC ⁴ ; the United Kingdom	2000/365/EC ⁴ ; the United Kingdom	
is therefore not taking part in the	is therefore not taking part in the	is therefore not taking part in the	
adoption of this Regulation and is not	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.	
(14) This Regulation constitutes a	(14) This Regulation constitutes a	(14) 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 ⁵ ; Ireland is therefore	2002/192/EC ⁵ , Ireland is therefore	2002/192/EC ⁵ ; 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.	
(15) As regards Iceland and	(15) As regards Iceland and	(15) As regards Iceland and	

4

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).

⁵ 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).

Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis*⁶ which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC⁷.

(16) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning 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*⁸ which fall within the area referred to

Norway, this Regulation constitutes at development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC⁷.

(16) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning 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*⁸ which fall within the area referred to

Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen *acquis*⁶ which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC⁷.

(16) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning 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* which fall within the area referred to

⁶ OJ L 176, 10.7.1999, p. 36.

⁸ OJ L 53, 27.2.2008, p. 52.

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).

in Article 1, point A of Council	in Article 1, point A of Council	in Article 1, point A of Council	
Decision 1999/437/EC ⁹ read in	Decision 1999/437/EC ⁹ read in	Decision 1999/437/EC ⁹ read in	
conjunction with Article 3 of Council	conjunction with Article 3 of Council	conjunction with Article 3 of Council	
Decision 2008/146/EC ¹⁰ .	Decision 2008/146/EC ¹⁰ .	Decision 2008/146/EC ¹⁰ .	
(17) As regards Liechtenstein, this	(17) As regards Liechtenstein, this	(17) 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	
accession of the Principality of	accession of the Principality of	accession of the Principality of	
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	
acquis ¹¹ which fall within the area	acquis 11 which fall within the area	acquis ¹¹ which fall within the area	

11 OJ L 160, 18.6.2011, p. 21.

10545/17 ADD 2

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).

¹⁰ 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)..

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 ¹²	Council Decision 1999/437/EC ¹²	Council Decision 1999/437/EC ¹²	
read in conjunction with Article 3 of	read in conjunction with Article 3 of	read in conjunction with Article 3 of	
Council Decision 2011/350/EU ¹³ .	Council Decision 2011/350/EU ¹³	Council Decision 2011/350/EU ¹³ .	
		(17a) [As regards Cyprus Bulgaria,	
		Romania and Croatia, provisions of	
		this Regulation referring to VIS	
		constitute provisions building upon,	
		or otherwise relating to, the	
		Schengen acquis within,	
		respectively, the meaning of Article	
		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.]	
(18) Regulation (EU) 2016/399	(18) Regulation (EU) 2016/399	(18) Regulation (EU) 2016/399	
should therefore be amended	should therefore be amended	should therefore be amended	
accordingly,	accordingly	accordingly,	
HAVE ADOPTED THIS	HAVE ADOPTED THIS	HAVE ADOPTED THIS	
REGULATION:	REGULATION:	REGULATION:	
Article 1	Article 1	Article 1	
Regulation (EU) 2016/399 is	Regulation (EU) 2016/399 is	Regulation (EU) 2016/399 is	
amended as follows:	amended as follows:	amended as follows:	

_

¹² 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)

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).

means the system established by [Regulation No° XXX of the European Parliament and of the Council establishing the 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	22. 'Entry/Exit System (EES)' neans the system established by Regulation No° XXX of the European Parliament and of the Council establishing the Entry/Exit System (EES) to register entry and exit data and refusal of entry data of hird country nationals crossing the	"22. 'Entry/Exit System (EES)' means the system established by [Regulation (EU) No° XXX of the European Parliament and of the Council establishing the Entry/Exit System (EES) to register entry and	Provisionally agreed: "22. 'Entry/Exit System (EES)' means the system established by [Regulation (EU) No° XXX of the European Parliament and of the
	external borders of the Member States of the European Union and letermining the conditions for access to the EES for law enforcement purposes;	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;	Council establishing the 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;
all or some of the border checks that are applicable to a person;	an automated system which performs all or some of the border checks that are applicable to a person;	23. 'Self-service system' means an automated system which performs all or some of the border checks that are applicable to a person and which may be used for pre-enrolling data in EES;	Provisionally agreed: 23. 'Self-service system' means an automated system which performs all or some of the border checks that are applicable to a person and which may be used for pre-enrolling data in EES;
means where the effective crossing means	24. 'e-gate' means an infrastructure operated by electronic means where the effective crossing of an external border takes place;	24. 'e-gate' means an infrastructure operated by electronic means where the effective crossing of [] a border takes place;	Provisionally agreed: 24. 'e-gate' means an infrastructure operated by electronic means where the effective crossing of an external border or an internal border where controls have not been lifted takes place;

14 **EN** 10545/17 ADD 2 RG/mdc

system' means a system which allows	system' means a system which allows	system' means a system which allows	
for an automated border passage, and	for an automated border passage, and	for an automated border passage, and	
which is composed of a self-service	which is composed of a self-service	which is composed of a self-service	
system and an e-gate."	system and an e-gate."	system and an e-gate.	
, , , , , , , , , , , , , , , , , , ,	25a. 'confirmation of the	, , , , , , , , , , , , , , , , , , ,	Principle provisionally agreed.
	authenticity and integrity of the chip		Drafting and harmonization
	data' means the process by which it		throughout the text to be provided by
	is verified, through the use of		the Commission.
	certificates, that the data on the chip		
	originates from the issuing		
	authority and that is has not been		
	changed.		
	- Changean	(1a) In Article 6 paragraph 1,	Council to check if this provision can
		point (f) is added:	be moved to Art. 14 (refusal of entry)
		"(f) they provide the biometric data,	to me rea to 11m 11 (regular of entry)
		if required for:	
		(i) creating the individual file in	
		the Entry/Exit system in accordance	
		with Articles 14 and 15 of	
		Regulation establishing the	
		Entry/Exit System (EES)];	
		(ii) carrying out border checks in	
		accordance with Article 8(3)(a)(i)	
		and (g)(i) of this Regulation, Article	
		21(2) and (4) of [Regulation	
		establishing the Entry/Exit System	
		(EES)] and, where applicable, Article	
		18 of Regulation (EC) No 767/2008.	
(2) The following Article 6a is	(2) The following Article 6a is	(2) The following Article 6a is	
inserted:	inserted:	inserted:	
"Article 6a	"Article 6a	"Article 6a	Provisionally agreed:
Third country nationals for which	Third country nationals for which	Third country nationals for []	"Article 6a

data shall be entered into the EES	data shall be entered into the EES	whom data shall be entered into the EES	Third country nationals for <u>whom</u> data shall be entered into the EES
		LES	adia shall be entered thio the EES
			JL to verify "shall":
			EP lawyer-linguist proposal:
			"Third country nationals for whom
			data is to be entered into the EES"
1. Data on entry and exit of the	1. Data on entry and exit of the	1. Data on entry and exit of the	
following categories of persons shall	following categories of persons shall	following categories of persons shall	
be entered into the EES in	be entered into the EES in	be entered into the EES in	
accordance with Articles 14, 15, 17	accordance with Articles 14, 15, 17	accordance with Articles 14, 15, 17	
and 18 of [Regulation establishing	and 18 of Regulation establishing	and 18 of [Regulation establishing	
the Entry/Exit System (EES)]:	the Entry/Exit System (EES)]:	the Entry/Exit System (EES)]:	
(a) third country nationals	(a) third country nationals	(a) third country nationals	
admitted for a short stay pursuant to	admitted for a short stay pursuant to	admitted for a short stay pursuant to	
Article 6(1) [or for a stay on the basis	Article 6(1) for for a stay on the basis	Article 6(1) [or for a stay on the basis	
of a touring visa];	of a touring visa];	of a touring visa];	
(b) third country nationals who	(b) third country nationals who	(b) third country nationals who	
are members of the family of a Union	are members of the family of a Union	are members of the family of a Union	
citizen to whom Directive	citizen to whom Directive	citizen to whom Directive	
2004/38/EC applies and who do not	2004/38/EC applies and who do not	2004/38/EC applies and who do not	
hold a residence card pursuant to that	hold a residence card pursuant to that	hold a residence card pursuant to that	
Directive;	Directive;	Directive;	
(c) third country nationals who	(c) third country nationals who	(c) third country nationals who	Provisionally agreed:
are members of the family of	are members of the family of	are members of the family of	(c) third country nationals who
nationals of third countries enjoying	nationals of third countries enjoying	nationals of third countries enjoying	are members of the family of-a
the right of free movement under	the right of free movement under	the right of free movement under	nationals of a third countryies
Union law and who do not hold a	Union law and who do not hold a	Union law or enjoying the right of	enjoying the right of free movement
residence card pursuant to Directive	residence card pursuant to Directive	free movement equivalent to that of	under Union law equivalent to that of
2004/38/EC.	2004/38/EC.	<u>Union citizens under an agreement</u>	Union citizens under an agreement
		between the Union and its Member	between the Union and its Member
		States on the one hand and a third	States on the one hand and a third
		country on the other, and who do not	country on the other and who do not

			1
		hold a residence card pursuant to	hold a residence card referred to
		Directive 2004/38/EC or a residence	under Directive 2004/38/EC or a
		document pursuant to the agreement	residence permit pursuant to
		as applicable.	Regulation (EC) No 1030/2002.
2. Data on third country	2. Data on third country	2. Data on third country	Provisionally agreed:
nationals whose entry for a short stay	nationals whose entry for a short stay	nationals whose entry for a short stay	2. Data on third country
or on the basis of a touring visa has	or on the basis of a touring visa has	[or on the basis of a touring visa] has	nationals whose entry for a short stay
been refused in accordance with	been refused in accordance with	been refused in accordance with	[or on the basis of a touring visa] has
Article 14 of this Regulation shall be	Article 14 of this Regulation shall be	Article 14 of this Regulation shall be	been refused in accordance with
entered in the EES in accordance	entered in the EES in accordance	entered in the EES in accordance	Article 14 of this Regulation shall be
with Article 16 of [Regulation	with Article 16 of [Regulation	with Article 16 of [Regulation	entered in the EES in accordance
establishing the Entry/Exit System	establishing the Entry/Exit System	establishing the Entry/Exit System	with Article 16 of [Regulation
(EES)].	(EES)].	(EES)].	establishing the Entry/Exit System
\ \ /3		, , , ,	(EES)].
3. Data on the following	3. Data on the following	3. Data on the following	
categories of persons shall not be	categories of persons shall not be	categories of persons shall not be	
entered into the EES:	entered into the EES:	entered into the EES:	
(a) third country nationals who	(a) third country nationals who	(a) third country nationals who	
are members of the family of a Union	are members of the family of a Union	are members of the family of a Union	
citizen to whom Directive	citizen to whom Directive	citizen to whom Directive	
2004/38/EC applies and who hold a	2004/38/EC applies and who hold a	2004/38/EC applies and who hold a	
residence card in accordance with	residence card in accordance with	residence card in accordance with	
that Directive;	that Directive;	that Directive;	
(b) third country nationals who	(b) third country nationals who	(b) third country nationals who	Provisionally agreed:
are members of the family of	are members of the family of	are members of the family of	(b) third country nationals who
nationals of third countries enjoying	nationals of third countries enjoying	nationals of third countries enjoying	are members of the family of a
the right of free movement under	the right of free movement under	the right of free movement under	nationals-of a third countryies
Union law who hold a residence card	Union law who hold a residence card	Union law or enjoying the right of	enjoying the right of free movement
referred to in Directive 2004/38/EC;	referred to in Directive 2004/38/EC;	free movement equivalent to that of	under Union law equivalent to that of
		Union citizens under an agreement	Union citizens under an agreement
		between the Union and its Member	between the Union and its Member
		States on the one hand and a third	States on the one hand and a third
		country on the other, and who hold a	country on the other and who hold a

		residence card pursuant to Directive	residence card referred to under
		2004/38/EC or a residence document	Directive 2004/38/EC or a residence
		pursuant to the agreement as	
			permit pursuant to Regulation (EC)
		applicable.	No 1030/2002.
		(b1) holders of residence permits	Provisionally agreed:
		referred to in point 16 of Article 2	<u>b1)</u> <u>holders of residence permits</u>
		other than those covered by points	referred to in point 16 of Article 2
		(a) and (b) of this paragraph;	other than those covered by points
			(a) and (b) of this paragraph;
		(b2) holders of long-stay visas;	Provisionally agreed:
			(b2) holders of long-stay visas;
		(b3) third country nationals	Provisionally agreed:
		exercising mobility in accordance	(b3) third country nationals
		with Directive 2014/66/EU ^{13a} or	exercising mobility in accordance
		Directive (EU) 2016/801 ^{13b} as those	with Directive 2014/66/EU ^{13a} or
		Directives set up specific intra-EU	Directive (EU) 2016/801 ^{13b} as those
		mobility schemes;	Directives set up specific intra-EU
		•	mobility schemes;
(c) nationals of Andorra, Monaco	(c) nationals of Andorra, Monaco	(c) nationals of Andorra,	Provisionally agreed:
and San Marino;	and San Marino;	Monaco, and San Marino and holders	(c) nationals of Andorra,
		of a passport issued by the Vatican	Monaco, and San Marino and holders
		City State;	of a passport issued by the Vatican
		· · · · · · · · · · · · · · · · · · ·	City State;
(d) persons or categories of	(d) persons or categories of	(d) persons or categories of	
persons exempt from border checks	persons exempt from border checks	persons exempt from border checks	
or benefitting from facilitation of	or benefitting from facilitation of	or benefitting from facilitation of	
border crossing:	border crossing:	border crossing:	
(i) heads of State and members	(i) Heads of State, heads of	(i) heads of State, heads of	Provisionally agreed:
of their delegation in accordance	government and the members of	government and members of national	(i) Heads of State, Heads of
with point 1 of Annex VII;	their <i>delegations</i> in accordance with	government with accompanying	Government and the members of
The point 1 of Fillians, 111,	point 1 of Annex VII;	spouses, sovereigns and other senior	national government with
	point 1 of Aimex vii,	members of a royal family and	accompanying spouses, sovereigns
		members of a royal failing and	accompanying spouses, sovereigns

members of their delegation	in and other members of a royal family
accordance with point 1 of A	and members of their delegation in
VII;	accordance with point 1 of Annex
	VII;

Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, OJ L 157, 27.5.2014, p. 1.

Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purpose of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au paring (recast), OJ L 132, 21.5.2016, p. 21.

(ii) pilots of aircraft and other	(ii) pilots of aircraft and other	(ii) pilots of aircraft and other	
crew members in accordance with	crew members in accordance with	crew members in accordance with	
point 2 of Annex VII;	point 2 of Annex VII;	point 2 of Annex VII;	
(iii) seamen in accordance with	(iii) seamen in accordance with	(iii) seamen in accordance with	Provisionally agreed:
point 3 of Annex VII;	point 3 of Annex VII;	point 3 of Annex VII and seamen	(iii) seamen in accordance with
		who are present within the territory	point 3 of Annex VII and seamen
		of a Member State only when their	who are present within the territory
		ship puts in and in the area of the	of a Member State only when their
		port of call;	ship puts in and in the area of the
			port of call;
(iv) cross-border workers in	(iv) cross-border workers in	(iv) cross-border workers in	
accordance with point 5 of Annex	accordance with point 5 of Annex	accordance with point 5 of Annex	
VII;	VII;	VII;	
(v) rescue services, police, fire	(v) rescue services, police, fire	(v) rescue services, police, fire	
brigades acting in emergency	brigades acting in emergency	brigades acting in emergency	
situation and border guards in	situation and border guards in	situation and border guards in	
accordance with point 7 of Annex	accordance with point 7 of Annex	accordance with point 7 of Annex	
VII;	VH;	VII;	
(vi) offshore workers in	(vi) offshore workers in	(vi) offshore workers in	
accordance with point 8 of Annex	accordance with point 8 of Annex	accordance with point 8 of Annex	

VII;	VII;	VII;	
(vii) crew members and	(vii) crew members and	(vii) crew members and	
passengers of cruise ships in	passengers of cruise ships in	passengers of cruise ships in	
accordance with points 3.2.1, 3.2.2	accordance with points 3.2.1, 3.2.2	accordance with points 3.2.1, 3.2.2	
and 3.2.3 of Annex VI;	and 3.2.3 of Annex VI;	and 3.2.3 of Annex VI;	
(viii) persons on board a pleasure	(viii) persons on board a pleasure	(viii) persons on board a pleasure	
boat who are not subject to border	boat who are not subject to border	boat who are not subject to border	
checks in accordance with points	checks in accordance with points	checks in accordance with points	
3.2.4, 3.2.5 and 3.2.6 of Annex VI;	3.2.4, 3.2.5 and 3.2.6 of Annex VI;	3.2.4, 3.2.5 and 3.2.6 of Annex VI;	
(e) persons who are exempt from	(e) persons who are exempt from	(e) persons who are exempt from	
the obligation to cross external	the obligation to cross external	the obligation to cross external	
borders only at border crossing	borders only at border crossing	borders only at border crossing	
points and during the fixed opening	points and during the fixed opening	points and during the fixed opening	
hours pursuant to Article 5(2);	hours pursuant to Article 5(2);	hours pursuant to Article 5(2);	
(f) persons who present a valid	(f) persons who present a valid	(f) persons who present a valid	Provisionally agreed:
local border traffic permit for their	local border traffic permit for their	local border traffic permit for their	(f) persons who present a valid
border crossing in accordance with	border crossing in accordance with	border crossing in accordance with	local border traffic permit for their
Regulation (EC) No 1931/2006 of	Regulation (EC) No 1931/2006 of	Regulation (EC) No 1931/2006 of	border crossing in accordance with
the European Parliament and of the	the European Parliament and of the	the European Parliament and of the	Regulation (EC) No 1931/2006 of
Council.	Council.	Council;	the European Parliament and of the
			Council;
		(g) crews of passenger and goods	Provisionally agreed:
		trains on international connections;	(g) crews of passenger and goods
			trains on international connections;
		(h) persons who present for their	Provisionally agreed:
		border crossing	(h) persons who present for their
			border crossing
		(i) a valid Facilitated Rail	Provisionally agreed:
		<u>Transit Document issued in</u>	(i) a valid Facilitated Rail
		accordance with Regulation (EC) No	<u>Transit Document issued in</u>
		<u>693/2003 or</u>	accordance with Regulation (EC) No
			<u>693/2003 or</u>

		(11)	D 11 11 1
		(ii) <u>a valid Facilitated Transit</u>	Provisionally agreed:
		Document issued in accordance with	(ii) a valid Facilitated Transit
		Regulation (EC) No 693/2003	Document issued in accordance with
		provided that they perform their	Regulation (EC) No 693/2003
		transit by train and they do not	provided that they perform their
		disembark in the territory of a	transit by train and they do not
		Member State.	disembark in the territory of a
			Member State.
The data of the family members	The data of the family members	The data of the family members	
referred to in points (a) and (b) shall	referred to in points (a) and (b) shall	referred to in points (a) and (b) shall	
not be entered into the EES, even if	not be entered into the EES, even if	not be entered into the EES, even if	
they are not accompanying or joining	they are not accompanying or joining	they are not accompanying or joining	
the Union citizen or a third country	the Union citizen or a third country	the Union citizen or a third country	
national enjoying the right of free	national enjoying the right of free	national enjoying the right of free	
movement."	movement."	movement."	

DG D 1A

	Current SBC text	EES proposal	EP position	Council Position	Comments
Article 8	Border checks on persons	Border checks on persons			
1					
1.	Cross-border movement at				
	external borders shall be				
	subject to checks by border				
	guards. Checks shall be				
	carried out in accordance with				
	this chapter.				
	The checks may also cover				
	the means of transport and				
	objects in the possession of				
	the persons crossing the				
	border. The law of the				
	Member State concerned shall				
	apply to any searches which				
2	are carried out.			<u> </u>	
2.	On entry and on exit, persons				
	enjoying the right of free				
	movement under Union law				
	shall be subject to the				
2()	following checks:				
2(a)	Verification of the identity				
	and the nationality of the				
	person and of the authenticity				
	and validity of the travel				
	document for crossing the				
	border, including by consulting the relevant				
	databases, in particular:				
2(a)(1)	the SIS;				
	Interpol's Stolen and Lost				
2(a)(2)	Travel Documents (SLTD)				
	database;				
2(a)(3)	_				
2(a)(3)	national databases containing				

	information on stolen, misappropriated, lost and invalidated travel documents.				
		in paragraph 2, first subparagraph, the following sentence is added:	in paragraph 2, first subparagraph, the following sentence is added:	in paragraph 2, first subparagraph, the following sentence is added:	In paragraph (2)(a), the following sentence is added:
	For passports and travel documents containing a storage medium as referred to in Article 1(2) of Council Regulation (EC) No 2252/2004, the authenticity of the chip data shall be checked	If the travel document contains an electronic storage medium (chip), the authenticity of the chip data shall be confirmed using the complete valid certificate chain, unless this is impossible, for technical reasons or, in the case of a travel document issued by a third country, due to the non-availability of valid certificates	If For persons whose border crossing is subject to a registration in the EES, if the travel document contains an electronic storage medium (chip), the authenticity of the chip data shall be confirmed using the complete valid certificate chain, unless this is impossible, for technical reasons or, in the case of a travel document issued by a third country, due to the non-availability of valid certificates	If the travel document contains an electronic storage medium (chip), the authenticity and integrity of the chip data shall be confirmed using the complete valid certificate chain, unless this is impossible, for technical reasons or, in the case of a travel document issued by a third country, due to the non-availability of valid certificates	Provisionally agreed: If the travel document contains an electronic storage medium (chip), the authenticity and integrity of the chip data shall be confirmed using the complete valid certificate chain, unless this is impossible, for technical reasons or, in the case of a travel document issued by a third country, due to the non-availability of valid certificates
2(b)	verification that a person enjoying the right of free movement under Union law is not considered to be a threat to the public policy, internal security, public health or international relations of any of the Member States, including by consulting the SIS and other relevant Union databases. This is without prejudice to the consultation				

of national and Interpol databases		
Where there are doubts as to the authenticity of the travel document or the identity of its holder, at least one of the biometric identifiers integrated into the passports and travel documents issued in accordance with Regulation (EC) No 2252/2004 shall be verified. Where possible, such verification shall also be carried out in relation to travel documents not covered by that Regulation.		
		In paragraph (2)(b), the following sentence is added:
		Commission's drafting suggestion:
		For persons whose entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person in accordance with Article 21(2) of [Regulation establishing the Entry/Exit System (EES)] and, where applicable, an identification shall be

DG D 1A EN

			carried out in accordance with Article 21 (4) of [Regulation establishing the Entry/Exit System (EES)].
2a.	Where the checks against the databases referred to in points (a) and (b) of paragraph 2 would have a disproportionate impact on the flow of traffic, a Member State may decide to carry out those checks on a targeted basis at specified border crossing points, following an assessment of the risks related to the public policy, internal security, public health or international relations of any of the Member States.		
	The scope and duration of the temporary reduction to targeted checks against the databases shall not exceed what is strictly necessary and shall be defined in accordance with a risk assessment carried out by the Member State concerned. The risk assessment shall state the reasons for the temporary reduction to targeted checks against the databases, take into account, inter alia, the		

disproportionate impact on the flow of traffic and provide		
statistics on passengers and		
incidents related to cross-		
border crime. It shall be		
updated regularly.		
updated regularry.		
Persons who, in principle, are		
not subject to targeted checks		
against the databases, shall, as		
a minimum, be subject to a		
check with a view to		
establishing their identity on		
the basis of the production or		
presentation of travel		
documents. Such a check		
shall consist of a rapid and		
straightforward verification of		
the validity of the travel		
document for crossing the		
border, and of the presence of		
signs of falsification or		
counterfeiting, where		
appropriate by using technical		
devices, and, in cases where		
there are doubts about the		
travel document or where		
there are indications that such		
a person could represent a		
threat to the public policy,		
internal security, public health		
or international relations of		
the Member States, the border		
guard shall consult the		
databases referred to in points		

	(a) and (b) of paragraph 2.		
2b.	The Member State concerned shall transmit its risk assessment and updates thereto to the European Border and Coast Guard Agency ('the Agency'), established by Regulation (EU) 2016/1624 of the European Parliament and of the Council, without delay and shall report every six months to the Commission and to the Agency on the application of the checks against the databases carried out on a targeted basis. The Member State concerned may decide to classify the risk assessment or parts thereof.		
	Where a Member State intends to carry out targeted checks against the databases pursuant to paragraph 2a, it shall notify the other Member States, the Agency and the Commission accordingly without delay. The Member State concerned may decide to classify the notification or parts thereof.		
	Where the Member States, the Agency or the Commission		

DG D 1A EN

	have concerns about the intention to carry out targeted checks against the databases, they shall notify the Member State in question of those concerns without delay. The Member State in question shall take those concerns into		
2c.	account. The Commission shall, by 8 April 2019, transmit to the European Parliament and the		
	Council an evaluation of the implementation and consequences of paragraph 2.		
2d.	With regard to air borders, paragraphs 2a and 2b shall apply for a maximum transitional period of six months from 7 April 2017.		
	In exceptional cases, where, at a particular airport, there are specific infrastructural difficulties requiring a longer period of time for adaptations in order to allow for the carrying-out of systematic checks against the databases without having a		
	disproportionate impact on the flow of traffic, the six- month transitional period referred to in the first subparagraph may be prolonged for that particular		

airport by a maximum of 18 months in accordance with the procedure specified in the third subparagraph.		
For that purpose, the Member State shall, at the latest three months before the expiry of the transitional period referred to in the first subparagraph, notify the Commission, the Agency and the other Member States of the specific infrastructural difficulties in the airport concerned, the envisaged measures to remedy them and the required period of time for their implementation.		
Where specific infrastructural difficulties requiring a longer period for adaptations exist, the Commission, within one month of receipt of the notification referred to in the third subparagraph and after consulting the Agency, shall authorise the Member State concerned to prolong the transitional period for the airport concerned and, where relevant, shall set the length of such prolongation.		
2e. The checks against the databases referred to in points		

	(a) and (b) of paragraph 2 may be carried out in advance on the basis of passenger data received in accordance with Council Directive 2004/82/EC or in accordance with other Union or national law.		
	Where those checks are carried out in advance on the basis of such passenger data, the data received in advance shall be checked at the border crossing point against the data in the travel document. The identity and the nationality of the person concerned, as well as the authenticity and the validity of the travel document for crossing the border, shall also be verified.		
2f.	By way of derogation from paragraph 2, persons enjoying the right of free movement under Union law who cross the internal land borders of the Member States for which the verification in accordance with the applicable Schengen evaluation procedures has already been successfully completed, but for which the decision on the lifting of controls on their internal borders pursuant to the		

	relevant provisions of the relevant Acts of Accession has not yet been taken, may be subject to the checks on exit referred to in paragraph 2 only on a non-systematic basis, based on a risk assessment.				
		points (a)(i), (a)(ii) and (a)(iii) are replaced by the following	points (a)(i), (a)(ii) and (a)(iii) are is replaced by the following:	points (a)(i), (a)(ii) and (a)(iii) are replaced by the following	
3.	On entry and exit, third- country nationals shall be subject to thorough checks as follows:				
3(a)	thorough checks on entry shall comprise verification of the conditions governing entry laid down in Article 6(1) and, where applicable, of documents authorising residence and the pursuit of a professional activity. This shall include a detailed examination covering the following aspects:				
3(a)(i)	verification of the identity and the nationality of the third-country national and of the authenticity and validity of the travel document for crossing the border, including by consulting the relevant databases, in particular:	verification of the identity and the nationality of the third country national and the validity and authenticity of the travel document, by consulting the relevant databases, in particular:	(i) verification of the identity and the nationality of the third country national and the validity and authenticity of the travel document, by consulting the relevant databases, in particular:	(i) verification of the identity and the nationality of the third country national and the validity and authenticity of the travel document, by consulting the relevant databases, in particular	No changes: the current legislation already covers this point.
3(a)(i)(1)	the SIS;	the Schengen information	(1) the Schengen	the Schengen information	No changes: the current

		system;	information system;	system;	legislation already covers this point.
3(a)(i)(2)	Interpol's SLTD database;	the Interpol database on stolen and lost travel	(2) the Interpol database on stolen and lost	the Interpol database on stolen and lost travel	No changes: the current legislation already covers
3(a)(i)(3)	national databases containing information on stolen, misappropriated, lost and invalidated travel documents	documents; national databases containing information on stolen, misappropriated, lost and invalidated travel documents.	travel documents; (3) national databases containing information on stolen, misappropriated, lost and invalidated travel documents.	documents; national databases containing information on stolen, misappropriated, lost and invalidated travel documents.	this point. No changes: the current legislation already covers this point.
	For passports and travel documents containing a storage medium, the authenticity of the chip data shall be checked, subject to the availability of valid certificates;	This verification includes a thorough scrutiny of the travel document for signs of falsification and counterfeiting. Except for third country nationals whose entry is subject to a registration in the EES, if the travel document contains a facial image recorded in the electronic storage medium (chip) and if the facial image recorded in the chip can be legally and technically accessed, this verification shall include the verification of the facial image recorded in the chip, by comparing electronically this image with the live facial image of the concerned third country national.	This verification includes a thorough scrutiny of the travel document for signs of falsification and counterfeiting. Except for third country nationals whose entry is subject to a registration in the EES, if the travel document contains a facial image recorded in the electronic storage medium (chip) and if the facial image recorded in the chip can be legally and technically accessed, this verification shall include the verification of the facial image recorded in the chip, by comparing electronically this image with the live facial image of the concerned third country national.	This verification includes a thorough scrutiny of the travel document for signs of falsification and counterfeiting. [] If the travel document contains a facial image recorded in the electronic storage medium (chip) and if the facial image recorded in the chip can be [] technically accessed, this verification shall include the verification of the facial image recorded in the chip, by comparing electronically this image with the live facial image of the concerned third country national, except for third country nationals who have an individual file already registered in the EES. If technically and legally possible, this verification may be done by verifying	Compromise proposal: For passports and travel documents containing a storage medium, the authenticity and integrity of the chip data shall be checked, subject to the availability of valid certificates. If the travel document contains a facial image recorded in the electronic storage medium (chip) and if the facial image recorded in the chip can be [] technically accessed, this verification shall include the verification of the facial image recorded in the chip, by comparing electronically this image with the live facial image of the concerned third country national, except for third country nationals who have an individual file

				the live fingerprints with the fingerprints recorded in the chip.	already registered in the EES. If technically and legally possible, this verification may be done by verifying the live fingerprints with the fingerprints recorded in the chip.
3(a)(ii)	verification that the travel document is accompanied, where applicable, by the requisite visa or residence permit;	verification that the travel document is accompanied, where applicable, by the requisite visa or residence permit. If the residence permit contains an electronic storage medium (chip) the authenticity of the chip data shall be confirmed using the complete valid certificate chain, unless this is impossible, for technical reasons. The thorough checks on entry shall also comprise a systematic verification of the validity of the residence permit or long stay visa by consulting, in the SIS and in other relevant databases, information exclusively on stolen, misappropriated, lost and invalidated documents	verification that the travel document is accompanied, where applicable, by the requisite visa or residence permit. If the residence permit contains an electronic storage medium (chip) the authenticity of the chip data shall be confirmed using the complete valid certificate chain, unless this is impossible, for technical reasons. The thorough checks on entry shall also comprise a systematic verification of the validity of the residence permit or long stay visa by consulting, in the SIS and in other relevant databases, information exclusively on stolen, misappropriated, lost and invalidated documents.[¹⁴]	verification that the travel document is accompanied, where applicable, by the requisite visa, [touring visa], long-stay visa or residence permit. If the residence permit contains an electronic storage medium (chip) the authenticity and integrity of the chip data shall be confirmed using the complete valid certificate chain, unless this is impossible, for technical reasons. The thorough checks on entry shall also comprise a systematic verification of the validity of the residence permit or long stay visa by consulting, in the SIS and in other relevant databases, information exclusively on stolen, misappropriated, lost and invalidated	EP to discuss internally EP to discuss internally

				documents.	
3(a)(iii)	examination of the entry and exit stamps on the travel document of the third-country national concerned, in order to verify, by comparing the dates of entry and exit, that the person has not already exceeded the maximum duration of authorised stay in the territory of the Member States;	for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person and, where applicable, an identification shall be carried out in accordance with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)].	for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person and, where applicable, an identification shall be carried out in accordance with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)].	for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person in accordance with Article 21(2) of [Regulation establishing the Entry/Exit System (EES)] and, where applicable, an identification shall be carried out in accordance with Article 21 (4) of [Regulation establishing the Entry/Exit System (EES)]."	Provisionally agreed: for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person in accordance with Article 21(2) of [Regulation establishing the Entry/Exit System (EES)] and, where applicable, an identification shall be carried out in accordance with Article 21 (4) of [Regulation establishing the Entry/Exit System
3(a)(iiia)		for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national has not already reached or exceeded the maximum duration of authorised stay in the territory of the Member States and, for third country nationals holding a single or double entry visa, verification that they have respected the number of the	for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national has not already reached or exceeded the maximum duration of authorised stay in the territory of the Member States and, for third country nationals holding a single or double entry visa, verification that they have respected the number of the	for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national has not already reached or exceeded the maximum duration of authorised stay in the territory of the Member States and, for third country nationals holding a single or double entry visa, verification that they have respected the number of the	(EES)]."

		maximum authorised entries, by consulting the EES in accordance with Article 21 of [Regulation establishing the Entry/Exit System (EES)]	maximum authorised entries, by consulting the EES in accordance with Article 21 of [Regulation establishing the Entry/Exit System (EES)]	maximum authorised entries, by consulting the EES in accordance with Article 21 of [Regulation establishing the Entry/Exit System (EES)]	
3(a)(iv)	verification regarding the point of departure and the destination of the third-country national concerned and the purpose of the intended stay, checking, if necessary, the corresponding supporting documents;				
3(a)(v)	verification that the third- country national concerned has sufficient means of subsistence for the duration and purpose of the intended stay, for his or her return to the country of origin or transit to a third country into which he or she is certain to be admitted, or that he or she is in a position to acquire such means lawfully;				
3(a)(vi)	verification that the third- country national concerned, his or her means of transport and the objects he or she is transporting are not likely to jeopardise the public policy, internal security, public health or international relations of any of the Member States. Such verification shall include				

	direct consultation of the data and alerts on persons and, where necessary, objects included in the SIS and other relevant Union databases, and the action to be performed, if any, as a result of an alert. This is without prejudice to the consultation of national and Interpol databases;				
	if the third country national holds a visa referred to in Article 6(1)(b), the thorough checks on entry shall also comprise verification of the identity of the holder of the visa and of the authenticity of the visa, by consulting the Visa Information System (VIS) in accordance with Article 18 of Regulation (EC) No 767/2008;				
3(b)	if the third country national holds a visa referred to in Article 6(1)(b), the thorough checks on entry shall also comprise verification of the identity of the holder of the visa and of the authenticity of the visa, by consulting the Visa Information System (VIS) in accordance with Article 18 of Regulation (EC) No 767/2008;	if the third country national holds a visa [or a touring visa] referred to in Article 6(1)(b) the thorough checks on entry shall also comprise the verification of the authenticity, territorial and temporal validity and status of the visa and, if applicable, of the identity of the holder of the visa, by consulting the VIS in accordance with Article 18 of Regulation (EC) No	if the third country national holds a visa [or a touring visa] referred to in Article 6(1)(b) the thorough checks on entry shall also comprise the verification of the authenticity, territorial and temporal validity and status of the visa and, if applicable, of the identity of the holder of the visa, by consulting the VIS in accordance with Article 18 of Regulation (EC) No	if the third country national holds a visa [or a touring visa] referred to in Article 6(1)(b) the thorough checks on entry shall also comprise the verification of the authenticity, territorial and temporal validity and status of the visa [or a touring visa] and, if applicable, of the identity of the holder of the visa [or a touring visa], by consulting the VIS in accordance with Article 18	Compromise proposal: if the third country national holds a visa [or a touring visa] referred to in Article 6(1)(b) the thorough checks on entry shall also comprise the verification of the authenticity, territorial and temporal validity and status of the visa [or a touring visa] and, if applicable, of the identity of the holder of the visa [or a touring visa], by

		767/2008 of the European Parliament and of the Council	767/2008 of the European Parliament and of the Council	of Regulation (EC) No 767/2008 of the European Parliament and of the Council	consulting the VIS in accordance with Article 18 of Regulation (EC) No 767/2008 of the European Parliament and of the Council EP to discuss internally
3(c)	by way of derogation, the VIS may be consulted using the number of the visa sticker in all cases and, on a random basis, the number of the visa sticker in combination with the verification of fingerprints where:				LI to discuss internativ
3(c)(i)	traffic of such intensity arises that the waiting time at the border crossing point becomes excessive;				
3(c)(ii)	all resources have already been exhausted as regards staff, facilities and organisation; and				
3(c)(iii)	on the basis of an assessment there is no risk related to internal security and illegal immigration				
	However, in all cases where there is doubt as to the identity of the holder of the visa and/or the authenticity of the visa, the VIS shall be consulted systematically				

	using the number of the visa sticker in combination with the verification of fingerprints.		
	This derogation may be applied only at the border crossing point concerned for as long as the conditions referred to in points (i), (ii) and (iii) are met;		
3(d)	the decision to consult the VIS in accordance with point (c) shall be taken by the border guard in command at the border crossing point or at a higher level.		
	The Member State concerned shall immediately notify the other Member States and the Commission of any such decision;		
3(e)	Member State shall transmit once a year a report on the application of point (c) to the European Parliament and the Commission, which shall include the number of third-country nationals who were checked in the VIS using the number of the visa sticker only and the length of the waiting time referred to in point (c)(i);		

3(f)	points (c) and (d) shall apply for a maximum period of three years, beginning three years after the VIS has started operations. The Commission shall, before the end of the second year of application of points (c) and (d), transmit to the European Parliament and to the Council an evaluation of their implementation. On the basis of that evaluation, the European Parliament or the Council may invite the Commission to propose appropriate amendments to this Regulation;				
3(g)	thorough checks on exit shall comprise:				
		point (g)(i) is replaced by the following:	point (g)(i) is replaced by the following:	point (g)(i) is replaced by the following:	
3(g)(i)	verification of the identity and the nationality of the third-country national and of the authenticity and validity of the travel document for crossing the border, including by consulting the relevant databases, in particular:	verification that the third country national is in possession of a document valid for crossing the border and that the document is accompanied, where applicable, by the requisite visa or residence permit. Verification of the document shall include the consultation of relevant databases, in particular the Schengen Information	verification that the third country national is in possession of a document valid for crossing the border and that the document is accompanied, where applicable, by the requisite visa or residence permit. Verification of the document shall include the consultation of relevant databases, in particular the Schengen Information	verification that the third country national is in possession of a document valid for crossing the border and that the document is accompanied, where applicable, by the requisite visa, [or a touring visa], long-stay visa or residence permit. Verification of the document shall include the consultation of relevant	[] If the travel document contains a facial image recorded in the electronic storage medium (chip) and if the facial image recorded in the chip can be [] technically accessed, this verification shall include the verification of the facial image recorded in the chip, by comparing electronically this image

3(g)(i)(1) th	he SIS;	nationals whose exit is subject to a registration in the EES, if the travel document contains a facial image recorded in the electronic storage medium (chip) and if the facial image recorded in the chip can be legally and technically accessed, this verification shall include the verification of the facial image recorded in the chip, by comparing electronically this image with the live facial image of the concerned third country national	nationals whose exit is subject to a registration in the EES, if the travel document contains a facial image recorded in the electronic storage medium (chip) and if the facial image recorded in the chip can be legally and technically accessed, this verification shall include the verification of the facial image recorded in the chip, by comparing electronically this image with the live facial image of the concerned third country national	documents.[16] [] If the travel document contains a facial image recorded in the electronic storage medium (chip) and if the facial image recorded in the chip can be [] technically accessed, this verification shall include the verification of the facial image recorded in the chip, by comparing electronically this image with the live facial image of the concerned third country national, except for third country nationals who have an individual file already registered in the EES. If technically and legally possible, this verification may be done by verifying the live fingerprints with the fingerprints recorded the in the chip.	by verifying the live fingerprints with the fingerprints recorded the in the chip.
10/1/1	Interpol's SLTD database;				See above

3(g)(i)(3)	national databases containing information on stolen, misappropriated, lost and invalidated travel documents.				See above
	For passports and travel documents containing a storage medium, the authenticity of the chip data shall be checked, subject to the availability of valid certificates;				For passports and travel documents containing a storage medium, the authenticity and integrity of the chip data shall be checked, subject to the availability of valid certificates;
3(g)(ii)	verification that the third- country national concerned is not considered to be a threat to the public policy, internal security, public health or international relations of any of the Member States, including by consulting the SIS and other relevant Union databases. This is without prejudice to the consultation of national and Interpol databases;				
		the following points (g) (iv) and (v) are added:	the following points (g) (iv) and (v) are added:	the following points (g) (iv) and (v) are added:	
3(g)(iv)		(iv)for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person and, where applicable in accordance	for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person and, where applicable in accordance	for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person in accordance with Article 21(2) of	Provisionally agreed: for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person in accordance

		with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)], an identification shall be carried out	with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)], an identification shall be carried out;	[Regulation establishing the Entry/Exit System (EES)] and, where applicable in accordance with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)], an identification shall be carried out;	with Article 21(2) of [Regulation establishing the Entry/Exit System (EES)] and, where applicable, an identification shall be carried out in accordance with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)], an identification shall be carried out;
3(g)(v)		(v) for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national did not exceed the maximum duration of authorised stay in the territory of the Member States, by consulting the EES in accordance with Article 21 of [Regulation establishing the Entry/Exit System (EES)]	for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national did not exceed the maximum duration of authorised stay in the territory of the Member States, by consulting the EES in accordance with Article 21 of [Regulation establishing the Entry/Exit System (EES)]	for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national did not exceed the maximum duration of authorised stay in the territory of the Member States, by consulting the EES in accordance with Article 21(3) of [Regulation establishing the Entry/Exit System (EES)]	Provisionally agreed: for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national did not exceed the maximum duration of authorised stay in the territory of the Member States, by consulting the EES in accordance with Article 21(3) of [Regulation establishing the Entry/Exit System (EES)]
3(h)	in addition to the checks referred to in point (g) thorough checks on exit may also comprise:				
3(h)(i)	verification that the person is in possession of a valid visa, if required pursuant to Regulation (EC) No				

3(h)(ii)	539/2001, except where he or she holds a valid residence permit; such verification may comprise consultation of the VIS in accordance with Article 18 of Regulation (EC) No 767/2008; verification that the person	DELETED	DELETED	DELETED	
	did not exceed the maximum duration of authorised stay in the territory of the Member States;				
3(i)	for the purpose of identification of any person who may not fulfil, or who may no longer fulfil, the conditions for entry, stay or residence on the territory of the Member States, the VIS may be consulted in accordance with Article 20 of Regulation (EC) No 767/2008;	for the purpose of identification of any person who may not fulfil, or who may no longer fulfil, the conditions for entry, stay or residence on the territory of the Member States, the VIS may be consulted in accordance with Article 20 of Regulation (EC) No 767/2008 and the EES may be consulted in accordance with Article 25 of [Regulation establishing the Entry/Exit System (EES)	for the purpose of identification of any person who may not fulfil, or who may no longer fulfil, the conditions for entry, stay or residence on the territory of the Member States, the VIS may be consulted in accordance with Article 20 of Regulation (EC) No 767/2008 and the EES may be consulted in accordance with Article 25 of [Regulation establishing the Entry/Exit System (EES)]	for the purpose of identification of any person who may not fulfil, or who may no longer fulfil, the conditions for entry, stay or residence on the territory of the Member States, the VIS may be consulted in accordance with Article 20 of Regulation (EC) No 767/2008 and the EES may be consulted in accordance with Article 25 of [Regulation establishing the Entry/Exit System (EES)]	
3(ia)	the checks against the databases referred to in point (a)(i) and (vi) and point (g) may be carried out in advance on the basis of passenger data received in accordance with Directive 2004/82/EC or with other Union or national law.				

DG D 1A EN

	Where those checks are carried out in advance on the basis of such passenger data, the data received in advance shall be checked at the border crossing point against the data in the travel document. The identity and the nationality of the person concerned, as well as the authenticity and validity of the travel document for crossing the border, shall also be verified;		
3(ib)	where there are doubts as to the authenticity of the travel document or the identity of the third-country national, the checks, where possible, shall include the verification of at least one of the biometric identifiers integrated into the travel documents.		
4.	Where facilities exist and if requested by the third-country national, such thorough checks shall be carried out in a private area.		
5.	Without prejudice to the second subparagraph, third-country nationals subject to a thorough second line check shall be given written information in a language which they understand or may		

DG D 1A EN

	reasonably be presumed to understand, or in another effective way, on the purpose of, and the procedure for, such a check.				
	This information shall be available in all the official languages of the Union and in the language(s) of the country or countries bordering the Member State concerned and shall indicate that the third-country national may request the name or service identification number of the border guards carrying out the thorough second line check, the name of the border crossing point and the date on which the border was crossed.				
6.	Checks on a person enjoying the right of free movement under Union law shall be carried out in accordance with Directive 2004/38/EC.				
7.	Detailed rules governing the information to be registered are laid down in Annex II.				
8.	Where Article 5(2)(a) or (b) applies, Member States may also provide derogations from the rules set out in this Article.				
		the following paragraph 9 is	the following paragraph 9 is	the following paragraph 9	

	1	added	added	is added	
		The border guard shall	The border guard shall	[] Any third country	Provisionally agreed:
	!	inform the third country	inform the third country	national shall have the right	
	!	national of the maximum	national of the maximum	to ask a border guard during	The border authorities
	!	number of days of the	number of days of the	border checks at entry	shall inform the third
	!	authorised short stay,	authorised short stay,	about the maximum	country national of the
	!	having regard to the results	having regard to the results	remaining number of days	maximum number of days
	!	of the consultation of the	of the consultation of the	of his/her authorized stay,	of authorised stay which
	!	EES which shall take into	EES which shall take into	which shall take into	shall take into account the
	!	account, for third country	account, for third country	account [] the number of	number of entries and the
	!	nationals holding a visa, the	nationals holding a visa, the	entries and the length of	length of stay authorised
	!	number of entries and the	number of entries and the	stay authorised by the visa	by the visa, in accordance
	!	length of the stay authorised	length of the stay authorised	$[]$ {or the touring visa},	with Article 8(9). <i>The</i>
	!	by the visa referred to in	by the visa referred to in	and be provided with such	information may be
	!	Article 6(1)(b)	Article 6(1)(b)	information by the border	provided either by the
	!	· '	1	guard on that occasion.	border guard at the
	!	· '	1		moment of the border
	!	· '	1		check or by means of an
	!	· '	1		equipment installed at the
	!	· '	1		border crossing point
	!	· '	1		enabling the third
	!	· '	1		countriy nationals to
	!	· '	1		consult the webservice as
		'			referred to in Article 12
		'			(1) of [Regulation]
		'			establishing the
,		· '			Entry/Exit System (EES)].

DG D 1A EN

(4) The following Article 8a is	(4) The following Article 8a is	(4) The following Article 8a is	
inserted:	inserted:	inserted:	
"Article 8a	"Article 8a	"Article 8a	Presidency suggestion:
Use of automated border control	Use of automated border control	Use of automated border control	
systems for EU/EEA/CH citizens and	systems for EU/EEA/CH citizens and	systems for EU/EEA/CH citizens and	Deletion of this Article
for third country nationals who hold	for third country nationals who hold	for third country nationals who hold	
a residence card	a residence card	a residence card	
1. The following categories of	1. The following categories of	1. The following categories of	
persons may be permitted to use	persons may be permitted to use	persons may be permitted to use	
automated border control systems if	automated border control systems if	automated border control systems if	
the conditions listed under paragraph	the conditions listed under paragraph	the conditions listed under paragraph	
2 are met:	2 are met:	2 are met:	
(a) Union citizens within the	(a) Union citizens within the	(a) Union citizens within the	
meaning of Article 20(1) of the	meaning of Article 20(1) of the	meaning of Article 20(1) of the	
Treaty;	Treaty;	<u>TFEU [];</u>	
(b) nationals of third countries	(b) nationals of third countries	(b) nationals of third countries	
who, under agreements between the	who, under agreements between the	who, under agreements between the	
Union and its Member States, on the	Union and its Member States, on the	Union and its Member States, on the	
one hand, and those third countries,	one hand, and those third countries,	one hand, and those third countries,	
on the other hand, enjoy rights of	on the other hand, enjoy rights of	on the other hand, enjoy rights of	
free movement equivalent to those of	free movement equivalent to those of	free movement equivalent to those of	
Union citizens;	Union citizens;	Union citizens;	
(c) third country nationals who	(c) third country nationals who	(c) third country nationals who	
are members of the family of a Union	are members of the family of a Union	are members of the family of a Union	
citizen to whom Directive	citizen to whom Directive	citizen to whom Directive	
2004/38/EC applies, who hold a	2004/38/EC applies, who hold a	2004/38/EC applies, who hold a	
residence card referred to in that	residence card referred to in that	residence card referred to in that	
Directive;	Directive;	Directive;	
(d) third country nationals who	(d) third country nationals who	(d) third country nationals who	
are members of the family of	are members of the family of	are members of the family of	
nationals of third countries enjoying	nationals of third countries enjoying	nationals of third countries enjoying	
the right of free movement under	the right of free movement under	the right of free movement under	

Union law who hold a residence card	Union law who hold a residence card	Union law who hold a residence card	
referred to in Directive 2004/38/EC.	referred to in Directive 2004/38/EC.	referred to in Directive 2004/38/EC.	
2. In order to be permitted to	2. In order to be permitted to	2. In order to be permitted to	
use automated border control	use automated border control	use automated border control	
systems, the following cumulative conditions shall be met:	systems, the following cumulative conditions shall be met:	systems, the following cumulative conditions shall be met:	
(a) the travel document presented	(a) the travel document presented	(a) the travel document [] shall	
for the border crossing shall contain	for the border crossing shall contain	contain an electronic storage medium	
an electronic storage medium (chip)	an electronic storage medium (chip)	(chip) and the authenticity and	
and the authenticity of the chip data	and the authenticity of the chip data	integrity of the chip data shall be	
shall be confirmed using the	shall be confirmed using the	confirmed using the complete valid	
complete valid certificate chain;	complete valid certificate chain;	certificate chain;	
(b) the travel document presented	(b) the travel document presented	(b) the travel document [] shall	
for the border crossing shall contain	for the border crossing shall contain	contain a facial image recorded in the	
a facial image recorded in the chip	a facial image recorded in the chip	chip which can be technically	
which can be technically accessed by	which can be technically accessed by	accessed by the automated border	
the automated system so as to verify	the automated system so as to verify	<u>control</u> system so as to verify the	
the identity of the holder of the travel	the identity of the holder of the travel	identity of the holder of the travel	
document by comparing the facial	document by comparing the facial	document by comparing the facial	
image recorded in the chip and the	image recorded in the chip and the	image recorded in the chip and the	
live facial image	live facial image	live facial image; if technically and	
		legally possible, this verification may	
		be done by verifiying the live	
		fingerprints with the fingerprints	
		recorded the in the chip of the travel	
		document;	
(c) in addition, third country	(c) in addition, third country	(c) in addition, third country	
nationals enjoying the right of free	nationals enjoying the right of free	nationals enjoying the right of free	
movement under Union law who	movement under Union law who	movement under Union law who	
hold a valid residence card shall meet	hold a valid residence card shall meet	hold a valid residence card shall meet	
the following conditions:	the following conditions:	the following conditions:	
(i) the residence card presented	(i) the residence card presented	(i) the residence card [] shall	
for the border crossing shall contain	for the border crossing shall contain	contain an electronic storage medium	
Tot the border crossing shall contain	101 the bolder crossing shan contain	contain an electronic storage medium	

	·		
an electronic storage medium (chip)	an electronic storage medium (chip)	(chip) and the authenticity and	
and the authenticity of the chip data	and the authenticity of the chip data	integrity of the chip data shall be	
shall be confirmed using the	shall be confirmed using the	confirmed using the complete valid	
complete valid certificate chain	complete valid certificate chain	certificate chain;	
(ii) the residence card presented	(ii) the residence card presented	(ii) the residence card [] shall	
for the border crossing shall contain	for the border crossing shall contain	contain a facial image recorded in the	
a facial image recorded in the chip	a facial image recorded in the chip	chip which can be technically	
which can be technically accessed by	which can be technically accessed by	accessed by the <u>automated border</u>	
the automated system so as to verify	the automated system so as to verify	<u>control</u> system so as to verify the	
the identity of the holder of the	the identity of the holder of the	identity of the holder of the []	
residence permit or residence card,	residence permit or residence card,	residence card, by comparing the	
by comparing the facial image	by comparing the facial image	facial image recorded in the chip and	
recorded in the chip and the live	recorded in the chip and the live	the live facial image; if technically	
facial image.	facial image.	and legally possible, this verification	
		may be done by verifiying the live	
		<u>fingerprints</u> with the fingerprints	
		recorded the in the chip of the	
		residence card.	
3. Where the conditions under	3. Where the conditions under	3. Where the conditions under	
paragraph 2 of this Article are met,	paragraph 2 of this Article are met,	paragraph 2 of this Article are met,	
the border checks on entry and exit	the border checks on entry and exit	the border checks on entry and exit	
provided for in Article 8(2) and the	provided for in Article 8(2) and the	provided for in Article 8(2) and the	
border crossing itself may be carried	border crossing itself may be carried	border crossing itself may be carried	
out using an automated border	out using an automated border	out using an automated border	
control system. When carried out by	control system. When carried out by	control system. When carried out by	
means of an automated border	means of an automated border	means of an automated border	
control system, the border check on	control system, the border check on	control system, the border check on	
entry and exit shall systematically	entry and exit shall systematically	entry and exit shall systematically	
include the verification that the	include the verification that the	include the verification that the	
person does not represent a genuine,	person does not represent a genuine,	person does not represent a genuine,	
present and sufficiently serious threat	present and sufficiently serious threat	present and sufficiently serious threat	
to the internal security, public policy,	to the internal security, public policy,	to the internal security, public policy,	
international relations of the Member	international relations of the Member	international relations of the Member	

States or a threat to public health,	States or a threat to public health,	States or a threat to public health,	
including by consulting the relevant	including by consulting the relevant	including by consulting the relevant	
Union and national databases, in	Union and national databases, in	Union and national databases, in	
particular the Schengen Information	particular the Schengen Information	particular the Schengen Information	
System.[14]	System.[¹⁷]	System.[17]	
4. On entry and exit, the results	4. On entry and exit, the results	4. On entry and exit, the results	
of the border checks carried out	of the border checks carried out	of the border checks carried out	
through a self-service system shall be	through a self-service system shall be	through a self-service system shall be	
made available to a border guard.	made available to a border guard.	made available to a border guard.	
Taking into account the results of the	Taking into account the results of the	[] This border guard shall monitor	
border checks, this border guard shall	border checks, this border guard shall	the results of border checks and,	
authorise the entry or exit or,	authorise the entry or exit or,	taking into account these results,	
otherwise, refer the person to a	otherwise, refer the person to a	authorise the entry or exit or,	
border guard who shall proceed with	border guard who shall proceed with	otherwise, refer the person to a	
further checks.	further checks.	border guard who shall proceed with	
		further checks.	
5. The person shall be referred	5. The person shall be referred	5. The person shall be referred	
to a border guard in the following	to a border guard in the following	to a border guard in the following	
situations:	situations:	situations:	
(a) when one of the conditions	(a) when one of the conditions	(a) when one of the conditions	
listed under paragraph 2 is not	listed under paragraph 2 is not	listed under paragraph 2 is not	
fulfilled;	fulfilled;	fulfilled;	
(b) when the results of the checks	(b) when the results of the checks	(b) when the results of the checks	
on entry or exit provided for under	on entry or exit provided for under	on entry or exit provided for under	
Article 8(2) question the identity of	Article 8(2) question the identity of	Article 8(2) question the identity of	
the person or when they reveal that	the person or when they reveal that	the person or when they reveal that	
the person represents a genuine,	the person represents a genuine,	the person represents a genuine,	
present and sufficiently serious threat	present and sufficiently serious threat	present and sufficiently serious threat	
to the internal security, public policy,	to the internal security, public policy,	to the internal security, public policy,	

A similar conditions is foreseen in the proposal (COM(2015)670/2) amending Article 7 of the SBC (further to the codification, current Article 8) and will be part of the compulsory checks for persons enjoying the right of free movement. Depending on the final version of the text adopted, this sentence may become redundant/obsolete.

international relations of the Member	international relations of the Member	international relations of the Member	
States or a threat to public health;	States or a threat to public health;	States or a threat to public health;	
(c) in case of doubt.	(c) in case of doubt.	(c) in case of doubt.	
6. Without prejudice to	6. Without prejudice to	6. Without prejudice to	
paragraph 4, the border guard	paragraph 4, the border guard	paragraph 4, the border guard	
supervising the border crossing may	supervising the border crossing may	supervising the border crossing may	
decide to refer persons using the	decide to refer persons using the	decide to refer persons using the	
automated border control system to a	automated border control system to a	automated border control system to a	
border guard based on other reasons	border guard based on other reasons	border guard based on other reasons.	
7. Automated border control	7. Automated border control	7. Automated border control	
systems shall be operated under the	systems shall be operated under the	systems shall be operated under the	
supervision of a border guard who	supervision of a border guard who	supervision of a border guard who	
shall be in charge of observing the	shall be in charge of observing the	shall be in charge of observing the	
users and detecting any	users and detecting any	users and detecting any	
inappropriate, fraudulent or abnormal	inappropriate, fraudulent or abnormal	inappropriate, fraudulent or abnormal	
use of the system."	use of the system."	use of the system."	
	(4a) The following Article 8aa is		
	inserted:		
	"Article 8aa		
	Standards for automated border		
	control systems		
	1. Automated border control		To revert to this pending the outcome
	systems shall be designed in such a		of Art. 8a
	way that they can be used by all		
	persons, with the exception of		
	children under 12 years of age.		
	They shall also be designed in a way		
	that fully respects human dignity, in		
	particular in cases involving		
	vulnerable persons. Where Member		
	States decide to use automated		
	border control systems, they shall		

	ensure the presence of a sufficient		
	number of staff to assist persons		
	with the use of such systems.		
	2. The Commission in close		
	cooperation with eu-LISA shall be		
	empowered to adopt delegated acts		
	in accordance with Article 37		
	concerning the adoption of		
	additional technical standards for		
	automated border control systems."		
(5) The following Article 8b is	(5) The following Article 8b is	(5) The following Article 8b is	Presidency suggestion:
inserted:	inserted:	inserted:	
			Deletion of this Article
"Article 8b	"Article 8b	"Article 8b	
Use of automated border control	Use of automated border control	Use of automated border control	
systems for third country nationals	systems for third country nationals	systems for third country nationals	
who hold a residence permit	who hold a residence permit	who hold a residence permit	
1. Third country nationals who	1. Third country nationals who	1. Third country nationals who	
hold a residence permit may be able	hold a residence permit may be able	hold a residence permit may be []	
to use automated border control	to use automated border control	permitted to use automated border	
systems where the following	systems where the following	control systems where the following	
cumulative conditions are met:	cumulative conditions are met:	cumulative conditions are met:	
(a) the travel document presented	(a) the travel document presented	(a) the travel document [] shall	
for the border crossing shall contain	for the border crossing shall contain	contain an electronic storage medium	
an electronic storage medium (chip)	an electronic storage medium (chip)	(chip) and the authenticity and	
and the authenticity of the chip data	and the authenticity of the chip data	integrity of the chip data shall be	
shall be confirmed using the	shall be confirmed using the	confirmed using the complete valid	
complete valid certificate chain;	complete valid certificate chain;	certificate chain;	
(b) the travel document presented	(b) the travel document presented	(b) the travel document [] shall	
for the border crossing shall contain	for the border crossing shall contain	contain a facial image recorded in the	
a facial image recorded in the chip	a facial image recorded in the chip	chip which can be [] technically	
which can be legally and technically	which can be legally and technically	accessed by the automated border	

accessed by the automated system so	accessed by the automated system so	<u>control</u> system so as to verify the	
as to verify the identity of the holder	as to verify the identity of the holder	identity of the holder of the travel	
of the travel document by comparing	of the travel document by comparing	document by comparing the facial	
the facial image recorded in the chip	the facial image recorded in the chip	image recorded in the chip and his or	
and his or her live facial image;	and his or her live facial image;	her live facial image; if technically	
		and legally possible, this verification	
		may be done by verifiying the live	
		<u>fingerprints</u> with the fingerprints	
		recorded the in the chip of the travel	
		document;	
(c) the residence permit	(c) the residence permit	(c) the residence permit []	
presented for the border crossing	presented for the border crossing	shall contain an electronic storage	
shall contain an electronic storage	shall contain an electronic storage	medium (chip) and the authenticity	
medium (chip) and the authenticity	medium (chip) and the authenticity	and integrity of the chip data shall be	
of the chip data shall be confirmed	of the chip data shall be confirmed	confirmed using the complete valid	
using the complete valid certificate	using the complete valid certificate	certificate chain;	
chain;	chain;		
(d) the residence permit	(d) the residence permit	(d) the residence permit []	
presented for the border crossing	presented for the border crossing	shall contain a facial image recorded	
shall contain a facial image recorded	shall contain a facial image recorded	in the chip which can be technically	
in the chip which can be technically	in the chip which can be technically	accessed by the automated border	
accessed by the automated system so	accessed by the automated system so	<u>control</u> system so as to verify the	
as to verify the identity of the holder	as to verify the identity of the holder	identity of the holder of the residence	
of the residence permit, by	of the residence permit, by	permit, by comparing the facial	
comparing the facial image recorded	comparing the facial image recorded	image recorded in the chip and the	
in the chip and the live facial image.	in the chip and the live facial image.	live facial image; if technically and	
		legally possible, this verification may	
		be done by verifiying the live	
		<u>fingerprints</u> with the fingerprints	
		recorded the in the chip of the	
		residence permit.	
2. Where the conditions set out	2. Where the conditions set out	2. Where the conditions set out	
in paragraph 1 are met, the applicable	in paragraph 1 are met, the applicable	in paragraph 1 are met, the applicable	

53 **EN** 10545/17 ADD 2 RG/mdc

	T	T	
border checks on entry and exit and	border checks on entry and exit and	border checks on entry and exit and	
the border crossing itself may be	the border crossing itself may be	the border crossing itself may be	
carried out using an automated	carried out using an automated	carried out using an automated	
border control system. In particular:	border control system. In particular:	border control system. In particular:	
(a) on entry, third country	(a) on entry, third country	(a) on entry, third country	
nationals who hold a residence	nationals who hold a residence	nationals who hold a residence	
permit shall be subject to the border	permit shall be subject to the border	permit shall be subject to the border	
checks referred to in Article 8(2) and	checks referred to in Article 8(2) and	checks referred to in Article 8(2) and	
points (i),(ii), (iv) and (vi) of Article	points (i),(ii), (iv) and (vi) of Article	points (i),(ii) [] and (vi) of Article	
8(3)(a);	$\frac{8(3)(a)}{}$;	8(3)(a);	
(b) on exit, third country	(b) on exit, third country	(b) on exit, third country	
nationals who hold a residence	nationals who hold a residence	nationals who hold a residence	
permit shall be subject to the border	permit shall be subject to the border	permit shall be subject to the border	
checks referred to in Article 8(2) and	checks referred to in Article 8(2) and	checks referred to in Article 8(2) and	
points (i),(ii) and (iii) of Article	points (i),(ii) and (iii) of Article	points (i),(ii) and (iii) of Article	
8(3)(g).	8(3)(g).	8(3)(g).	
3. On entry and exit, the results	3. On entry and exit, the results	3. On entry and exit, the results	
of the border checks carried out	of the border checks carried out	of the border checks carried out	
through the self-service system shall	through the self-service system shall	through the self-service system shall	
be made available to a border guard.	be made available to a border guard.	be made available to a border guard.	
Taking into account the results of the	Taking into account the results of the	[] This border guard shall monitor	
border checks, this border guard shall	border checks, this border guard shall	the results of border checks and,	
authorise entry or exit or, otherwise,	authorise entry or exit or, otherwise,	taking into account these results,	
refer the person to a border guard.	refer the person to a border guard.	authorise entry or exit or, otherwise,	
		refer the person to a border guard	
		who shall proceed with further	
		checks.	
4. The person shall be referred	4. The person shall be referred	4. The person shall be referred	
to a border guard in the following	to a border guard in the following	to a border guard in the following	
situations:	situations:	situations:	
(a) when one or several of the	(a) when one or several of the	(a) when one or several of the	
conditions listed under paragraph 1 is	conditions listed under paragraph 1 is	conditions listed under paragraph 1 is	
or are not fulfilled;	or are not fulfilled;	or are not fulfilled;	

(b) when the results of the checks	(b) when the results of the checks	(b) when the results of the checks	
on entry or exit set out in paragraph 2	on entry or exit set out in paragraph 2	on entry or exit set out in paragraph 2	
put into question the identity of the	put into question the identity of the	put into question the identity of the	
person or when they reveal that the	person or when they reveal that the	person or when they reveal that the	
person is considered to be a threat to	person is considered to be a threat to	person is considered to be a threat to	
the internal security, public policy,	the internal security, public policy,	the internal security, public policy,	
international relations of any of the	international relations of any of the	international relations of any of the	
Member States or to public health;	Member States or to public health;	Member States or to public health;	
(c) when the checks on entry or	(c) when the checks on entry or	(c) when the checks on entry or	
exit set out in paragraph 2 of reveal	exit set out in paragraph 2 of reveal	exit set out in paragraph 2 of reveal	
that one or several of the entry or exit	that one or several of the entry or exit	that one or several of the entry or exit	
conditions are not met;	conditions are not met;	conditions are not met;	
(d) in case of doubt.	(d) in case of doubt.	(d) in case of doubt.	
5. Without prejudice to	5. Without prejudice to	5. Without prejudice to	
paragraph 4, the border guard	paragraph 4, the border guard	paragraph 4, the border guard	
supervising the border crossing may	supervising the border crossing may	supervising the border crossing may	
decide to refer persons using the	decide to refer persons using the	decide to refer persons using the	
automated border control system to a	automated border control system to a	automated border control system to a	
border guard based on other reasons.	border guard based on other reasons.	border guard based on other reasons.	
6. Automated border control	6. Automated border control	6. Automated border control	
systems shall be operated under the	systems shall be operated under the	systems shall be operated under the	
supervision of a border guard who	supervision of a border guard who	supervision of a border guard who	
shall be in charge of observing the	shall be in charge of observing the	shall be in charge of observing the	
users and detecting any	users and detecting any	users and detecting any	
inappropriate, fraudulent or abnormal	inappropriate, fraudulent or abnormal	inappropriate, fraudulent or abnormal	
use of the system."	use of the system."	use of the system."	
(6) The following Article 8c is	(6) The following Article 8c is	(6) The following Article 8c is	
inserted:	inserted:	inserted:	
"Article 8c	"Article 8c	"Article 8c	
Use of self-service systems for pre-	Use of self-service systems for pre-	Use of self-service systems for pre-	
enrolling data in the EES	enrolling data in the EES	enrolling data in the EES	
1. Persons whose border	1. Persons whose border	1. Persons whose border	Provisionally agreed:

DG D 1A EN

crossing is subject to a registration in the EES in accordance with Article 6a may use self-service systems for the purpose of pre-enrolling their individual file data in the EES provided the following cumulative conditions are verified:	crossing is subject to a registration in the EES in accordance with Article 6a may use self-service systems for the purpose of pre-enrolling their individual file data in the EES provided the following cumulative conditions are verified:	crossing is subject to a registration in the EES in accordance with Article 6a may use self-service systems for the purpose of pre-enrolling in the EES [] the [] data referred in paragraph (4)(a) of this Article [] provided the following cumulative conditions are verified:	1. Persons whose border crossing is subject to a registration in the EES in accordance with Article 6a may use self-service systems for the purpose of pre-enrolling in the EES the data referred in paragraph (4)(a) of this Article provided the following cumulative conditions are verified:
(a) the travel document presented for the border crossing shall contain an electronic storage medium (chip) and the authenticity of the chip data shall be confirmed using the complete valid certificate chain;	(a) the travel document presented for the border crossing shall contain an electronic storage medium (chip) and the authenticity <i>and integrity</i> of the chip data shall be confirmed using the complete valid certificate chain;	(a) the travel document [] shall contain an electronic storage medium (chip) and the authenticity and integrity of the chip data shall be confirmed using the complete valid certificate chain;	Provisionally agreed: (a) the travel document shall contain an electronic storage medium (chip) and the authenticity and integrity of the chip data shall be confirmed using the complete valid certificate chain;
(b) the travel document presented for the border crossing shall contain a facial image recorded in the chip which can be legally and technically accessed by the automated system so as to verify the identity of the holder of the travel document by comparing the facial image recorded in the chip and his or her live facial image.	(b) the travel document presented for the border crossing shall contain a facial image recorded in the chip which can be legally and technically accessed by the automated <i>border control</i> system so as to verify the identity of the holder of the travel document by comparing the facial image recorded in the chip and his or her live facial image	(b) the travel document [] shall contain a facial image recorded in the chip which can be [] technically accessed by the [] self-service system so as to verify the identity of the holder of the travel document by comparing the facial image recorded in the chip and his or her live facial image; if technically and legally possible, this verification may be done by verifying the live fingerprints with the fingerprints recorded the in the chip of the travel document.	Provisionally agreed: (b) the travel document shall contain a facial image recorded in the chip which can be technically accessed by the self-service system so as to verify the identity of the holder of the travel document by comparing the facial image recorded in the chip and his or her live facial image; [if technically and legally possible, this verification may be done by verifying the live fingerprints with the fingerprints recorded the in the chip of the travel document.]
2. Pursuant to paragraph 1, the	2. Pursuant to paragraph 1, the	2. Pursuant to paragraph 1, the	
self-service system shall verify	self-service system shall verify	self-service system shall verify	

56 **EN** 10545/17 ADD 2 RG/mdc

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whether the person has a previous	whether the person has a previous	whether the person has a previous	
registration in the EES and the	registration in the EES and the	registration in the EES and the	
identity of the third country national	identity of the third country national	identity of the third country national	
in accordance with Article 21(2) of	in accordance with Article 21(2) of	in accordance with Article 21(2) of	
[Regulation establishing the	[Regulation establishing the	[Regulation establishing the	
Entry/Exit System (EES)].	Entry/Exit System (EES)].	Entry/Exit System (EES)].	
3. In conformity with Article	3. In conformity with Article	3. In conformity with Article	Provisionally agreed:
21(4) of [Regulation establishing the	21(4) of [Regulation establishing the	21(4) of [Regulation establishing the	3. In conformity with Article
Entry/Exit System (EES)], the self-	Entry/Exit System (EES)], the self-	Entry/Exit System (EES)], the self-	21(4) of [Regulation establishing the
service system shall carry out an	service system shall carry out an	service system shall carry out an	Entry/Exit System (EES)], the self-
identification in accordance with	identification in accordance with	identification in accordance with	service system shall carry out an
Article 25 of [Regulation	Article 25 of [Regulation	Article 25 of [Regulation	identification in accordance with
establishing the Entry/Exit System	establishing the Entry/Exit System	establishing the Entry/Exit System	Article 25 of [Regulation
(EES)] in the following situations:	(EES) in the following situations:	(EES)] []	establishing the Entry/Exit System
			(EES)]
(a) the verification referred to in	(a) the verification referred to in	(a) []	Provisionally agreed:
paragraph 2 indicates that data on the	paragraph 2 indicates that data on the		Deletion
third country national are not	third country national are not		
recorded in the EES;	recorded in the EES;		
(b) the verification of the third	(b) the verification of the third	(b) []	Provisionally agreed:
country national fails;	country national fails;		Deletion
(c) there are doubts as to the	(c) there are doubts as to the	(c) []	Provisionally agreed:
identity of the third country national.	identity of the third country national.		Deletion
In addition, in accordance with	In addition, in accordance with	In addition, in accordance with	
Articles 21(4) of the [Regulation	Articles 21(4) of the [Regulation	Articles 21(4) of the [Regulation	
establishing the Entry/Exit System	establishing the Entry/Exit System	establishing the Entry/Exit System	
(EES)] where an identification in the	(EES)] where an identification in the	(EES)] where an identification in the	
EES is carried out, the following	EES is carried out, the following	EES is carried out, the following	
provisions shall apply:	provisions shall apply:	provisions shall apply:	
(a) for third country nationals	(a) for third country nationals	(a) for third country nationals	Provisionally agreed:
who are subject to a visa requirement	who are subject to a visa requirement	who are subject to a visa requirement	(a) for third country nationals
to cross the external borders, if the	to cross the external borders, if the	to cross the external borders, if the	who are subject to a visa requirement

search in the VIS with the data	search in the VIS with the data	search in the VIS with the data	to cross the external borders, if the
referred to in Article 18(1) of	referred to in Article 18(1) of	referred to in Article 18(1) of	search in the VIS with the data
Regulation (EC) No 767/2008	Regulation (EC) No 767/2008	Regulation (EC) No 767/2008	referred to in Article 18(1) of
indicates that the person is recorded	indicates that the person is recorded	indicates that the person is recorded	Regulation (EC) No 767/2008
in the VIS, a verification of	in the VIS, a verification of	in the VIS, a verification of	indicates that the person is recorded
fingerprints against the VIS shall be	fingerprints against the VXS shall be	fingerprints against the VIS shall be	in the VIS, a verification of
carried out in accordance with	carried out in accordance with	carried out in accordance with	fingerprints against the VIS shall be
Article 18 (5) of Regulation (EC) No	Article 18 (5) of Regulation (EC) No	Article 18 (5) of Regulation (EC) No	carried out in accordance with
767/2008; In circumstances where a	767/2008; In circumstances where a	767/2008. In circumstances where a	Article 18 (5) of Regulation (EC) No
verification of the person pursuant to	verification of the person pursuant to	verification of the person pursuant to	767/2008. In circumstances where a
paragraph 2 of this Article failed, the	paragraph 2 of this Article failed, the	paragraph 2 of this Article failed, the	verification of the person pursuant to
border authorities shall access the	border authorities shall access the	border guard [] shall access the	paragraph 2 of this Article failed, the
VIS data for identification in	VIS data/for identification in	VIS data for identification in	border authorities shall access the
accordance with Article 20 of	accordance with Article 20 of	accordance with Article 20 of	VIS data shall be accessed for
Regulation (EC) No 767/2008.	Regulation (EC) No 767/2008.	Regulation (EC) No 767/2008.	identification in accordance with
			Article 20 of Regulation (EC) No
			767/2008.
(b) for third country nationals	(b) for third country nationals	(b) for third country nationals	
who are not subject to a visa	who are not subject to a visa	who are not subject to a visa	
requirement to cross the external	requirement to cross the external	requirement to cross the external	
borders and who are not found in the	borders and who are not found in the	borders and who are not found in the	
EES further to the identification run	EES further to the identification run	EES further to the identification run	
in accordance with Article 25 of	in accordance with Article 25 of	in accordance with Article 25 of	
[Regulation establishing the	[Regulation establishing the	[Regulation establishing the	
Entry/Exit System (EES)], the VIS	Entry/Exit_8ystem (EES)], the VIS	Entry/Exit System (EES)], the VIS	
shall be consulted in accordance with	shall be consulted in accordance with	shall be consulted in accordance with	
Article 19a of Regulation (EC) No	Article 19a of Regulation (EC) No	Article 19a of Regulation (EC) No	
767/2008.	767/2008.	767/2008.	
4. In the event that data on the	4. In the event that data on the	4. In the event that data on the	
person is not recorded in the EES	person is not recorded in the EES	person is not recorded in the EES	
pursuant to paragraphs 2 and 3, the	pursuant to paragraphs 2 and 3, the	pursuant to paragraphs 2 and 3, the	
following provisions shall apply:	following provisions shall apply:	following provisions shall apply:	
(a) third country nationals who	(a) third country nationals who	(a) third country nationals who	Provisionally agreed:

58 **EN** 10545/17 ADD 2 RG/mdc

are subject to a visa requirement to cross the external borders shall preenrol in the EES through the self-service system the data listed under Article 14(1) of [Regulation establishing the Entry/Exit System (EES)] and third country nationals who are not subject to a visa requirement to cross the external borders shall pre-enrol in the EES through the self-service system the data listed under Article 15(1), of [Regulation establishing the Entry/Exit System (EES)];	are subject to a visa requirement to cross the external borders shall preenrol in the EES through the self-service system the data listed under Article 14(1) of [Regulation establishing the Entry/Exit System (EES)] and third country nationals who are not subject to a visa requirement to cross the external borders shall pre-enrol in the EES through the self-service system the data listed under Article 15(1), of [Regulation establishing the Entry/Exit System (EES)];	are subject to a visa requirement to cross the external borders shall preenrol in the EES through the self-service system the data listed under Article 14(1), (2)(c), (d),(e), (f) and [(g)] and, where relevant, the data referred to under Article 14 (6) of [Regulation establishing the Entry/Exit System (EES)] and third country nationals who are not subject to a visa requirement to cross the external borders shall pre-enrol in the EES through the self-service system the data listed under Articles 15(1)(a), (b) and (c) and 14(2)(c) and, where relevant, the data referred to in Article (15)(1)(d), of [Regulation establishing the Entry/Exit System (EES)];	(a) third country nationals who are subject to a visa requirement to cross the external borders shall preenrol in the EES through the self-service system the data listed under Article 14(1), (2)(c), (d),(e), (f) and [(g)] and, where relevant, the data referred to under Article 14 (6)] of [Regulation establishing the Entry/Exit System (EES)] and third country nationals who are not subject to a visa requirement to cross the external borders shall pre-enrol in the EES through the self-service system the data listed under Articles 15(1)(a), (b) and (c) and 14(2)(c) and, where relevant, the data referred to in Article (15)(1)(d), of [Regulation establishing the Entry/Exit System (EES)];
			Part in square brackets to be dealt with in relation to Art. 8e.
(b) subsequently, the person shall	(b) subsequently, the person shall	(b) subsequently, the person shall	with its returned to 1111. Oc.
be referred to a border guard who	be referred to a border guard who	be referred to a border guard who	
shall:	shall:	shall:	
(a) where not all the required	(a) where not all the required	(i)[] where not all the required	Provisionally agreed:
data could be collected through the	data could be collected through the	data could be collected through the	(i) where not all the required
self-service kiosk, pre-enrol the	self-service kiosk, pre-enrol the	self-service kiosk, pre-enrol the	data could be collected through the
concerned data,	concerned data,	concerned data,	self-service kiosk, pre-enrol the
			concerned data,
(b) verify:	(b) verify:	(<u>ii)</u> [] <u>verify</u> :	Provisionally agreed:
			(ii) verify:

a) that the travel document used at the self service system corresponds to the one held by the person in front of the border guard;	a) that the travel document used at the self service system corresponds to the one held by the person in front of the border guard;	([]1) that the travel document used at the self service system corresponds to the one held by the person in front of the border guard;	Provisionally agreed: (1) that the travel document used at the self service system corresponds to the one held by the person in front of the border guard;
(b) that the live facial image of the person concerned corresponds to the facial image that was collected though the self service system;	(b) that the live facial image of the person concerned corresponds to the facial image that was collected though the self service system;	([]2) that the live facial image of the person concerned corresponds to the facial image that was collected though the self service system;	Provisionally agreed: (2) that the live facial image of the person concerned corresponds to the facial image that was collected though the self service system;
(c) and, for persons who do not hold a visa required pursuant to Regulation (EC) No 539/2001, that the live fingerprints of the concerned person correspond to the fingerprints that were collected though the self-service system;	(c) and, for persons who do not hold a visa required pursuant to Regulation (EC) No 539/2001, that the live fingerprints of the concerned person correspond to the fingerprints that were collected though the self-service system;	([]3) and, for persons who do not hold a visa required pursuant to Regulation (EC) No 539/2001, that the live fingerprints of the concerned person correspond to the fingerprints that were collected though the self-service system;	Provisionally agreed: (3) and, for persons who do not hold a visa required pursuant to Regulation (EC) No 539/2001, that the live fingerprints of the concerned person correspond to the fingerprints that were collected though the self-service system;
(c) when the decision to authorise or refuse entry has been taken, confirm the individual file in the EES and introduce the data foreseen under Articles 14(2), 16(1) or 16(3) of the [Regulation establishing the Entry/Exit System (EES)]).	(c) when the decision to authorise or refuse entry has been taken, confirm the individual file in the EES and introduce the data foreseen under Articles 14(2), 16(1) or 16(3) of the [Regulation establishing the Entry/Exit System (EES)]).	(iii[]) when the decision to authorise or refuse entry has been taken, confirm the [] data referred to in point (a) of this paragraph and introduce the data foreseen under Articles 14(2)(a), (b) [] or 16(2)(a), (b), (c) and (d) []) of the [Regulation establishing the Entry/Exit System (EES)]).	Provisionally agreed: (iii) when the decision to authorise or refuse entry has been taken, confirm the data referred to in point (a) of this paragraph and introduce the data foreseen under Articles 14(2)(a), (b) or 16(2)(a), (b), (c) and (d)) of the [Regulation establishing the Entry/Exit System (EES)]).
5. Where it results from the operations provided for in paragraphs 2, 3 and 4 that data on the person are recorded into the EES, the self-service system shall check whether	5. Where it results from the operations provided for in paragraphs 2, 3 and 4 that data on the person are recorded into the EES, the self-service system shall check whether	5. Where it results from the operations provided for in paragraphs 2 and 3 [] that data on the person are recorded into the EES, the self-service system shall check whether	Linked to the agreement on the territorial scope. Provisionally agreed: 5. Where it results from the operations provided for in paragraphs

	,		
one or more of the data listed under Articles 14(1) or 15(1) of the [Regulation establishing the Entry/Exit System (EES)] need to be updated. In addition, if it results that data on the person are recorded into the EES but that the third country national intends to cross for the first time after the creation of the individual file the external borders of a Member State which is subject to the application of Regulation (EC) No 767/2008, the VIS shall be consulted as referred to under Article 21(5) of the [Regulation establishing the Entry/Exit System (EES)]	one or more of the data listed under Articles 14(1) or 15(1) of the [Regulation establishing the Entry/Exit System (EES)] need to be updated. In addition, if it results that data on the person are recorded into the EES but that the third country national intends to cross for the first time after the creation of the individual file the external borders of a Member State which is subject to the application of Regulation (EC) No 767/2008, the VIS shall be consulted as referred to under Article 21(5) of the [Regulation establishing the Entry/Exit System (EES)]	one or more of the data referred in paragraph (4)(a) of this Article [] need to be updated. [].	2 and 3 [] that data on the person are recorded into the EES, the self-service system shall check whether one or more of the data referred in paragraph (4)(a) of this Article [] need to be updated. [].
6. Where it is verified pursuant to paragraph 5 that the person has a previous file registered in the EES but that his or her individual file needs to be updated, the following provisions shall apply:	6. Where it is verified pursuant to paragraph 5 that the person has a previous file registered in the EES but that his or her individual file needs to be updated, the following provisions shall apply:	6. Where it is verified pursuant to paragraph 5 that the person has an [] individual file registered in the EES but that his or her data [] needs to be updated, the following provisions shall apply:	Provisionally agreed: 6. Where it is verified pursuant to paragraph 5 that the person has an individual file registered in the EES but that his or her data needs to be updated, the following provisions
(a) the person shall pre-enrol through the self-service system the updated data in the EES;	(a) the person shall pre-enrol through the self-service system the updated data in the EES;	(a) the person shall pre-enrol through the self-service system the updated data in the EES;	shall apply:
(b) the person shall be referred to a border guard. That border guard shall verify the correctness of the update that was pre-enrolled through the self-service system and, when the decision to authorise or refuse entry has been taken, update the individual	(b) the person shall be referred to a border guard. That border guard shall verify the correctness of the update that was pre-enrolled through the self-service system and, when the decision to authorise or refuse entry has been taken, update the individual	(b) the person shall be referred to a border guard. That border guard shall verify the correctness of the update that was pre-enrolled through the self-service system and, when the decision to authorise or refuse entry has been taken, update the individual	

	,		,
file in accordance with Article 13(2)	file in accordance with Article 13(2)	file in accordance with Article 13(2)	
of [Regulation establishing the	of [Regulation establishing the	of [Regulation establishing the	
Entry/Exit System (EES)].	Entry/Exit System (EES)].	Entry/Exit System (EES)].	
7. Self-service systems shall be	7. Self-service systems shall be	7. Self-service systems shall be	
operated under the supervision of a	operated under the supervision of a	operated under the supervision of a	
border guard who shall be in charge	border guard who shall be in charge	border guard who shall be in charge	
of detecting any inappropriate,	of detecting any inappropriate,	of detecting any inappropriate,	
fraudulent or abnormal use of the	fraudulent or abnormal use of the	fraudulent or abnormal use of the	
system."	system."	system."	
(7) The following Article 8d is	(7) The following Article 8d is	(7) The following Article 8d is	
inserted:	inserted:	inserted:	
"Article 8d	"Article 8d	"Article 8d	Provisionally agreed:
Use of self-service systems and/or e-	Use of self-service systems and/or e-	Use of self-service systems and/or e-	"Article 8d
gates for the border crossing of third	gates for the border crossing of third	gates for the border crossing [] by	Use of self-service systems and/or e-
country nationals of whose border	country nationals of whose border	third country nationals [] whose	gates for the border crossing <u>by</u> third
crossing is subject to a registration	crossing is subject to a registration	border crossing is subject to a	country nationals whose border
in the EES	in the EES	registration in the EES	crossing is subject to a registration
			in the EES
1. Persons whose border	1. Persons whose border	1. Persons whose border	Provisionally agreed:
crossing is subject to a registration in	crossing is subject to a registration in	crossing is subject to a registration in	1. Persons whose border
the EES in accordance with Article	the EES in accordance with Article	the EES in accordance with Article	crossing is subject to a registration in
6a may be permitted to use a self-	6a may be permitted to use a self-	6a may be permitted to use a self-	the EES in accordance with Article
service system to have their border	service system to have their border	service system to have their border	6a may be permitted to use a self-
checks performed if the following	checks performed if the following	checks performed if the following	service system to have their border
cumulative conditions are met:	cumulative conditions are met:	cumulative conditions are met:	checks performed if the following
			cumulative conditions are met:
(a) the travel document presented	(a) the travel document presented	(a) the travel document [] shall	Provisionally agreed:
for the border crossing shall contain	for the border crossing shall contain	contain an electronic storage medium	(a) the travel document shall
an electronic storage medium (chip)	an electronic storage medium (chip)	(chip) and the authenticity and	contain an electronic storage medium
and the authenticity of the chip data	and the authenticity and integrity of	integrity of the chip data shall be	(chip) and the authenticity and
shall be confirmed using the	the chip data shall be confirmed	confirmed using the complete valid	integrity of the chip data shall be
complete valid certificate chain;	using the complete valid certificate	certificate chain;	confirmed using the complete valid
	chain;		certificate chain;

- (b) the travel document presented for the border crossing shall contain a facial image recorded in the chip which can be legally and technically accessed by the automated system so as to verify the identity of the holder of the travel document, by comparing the facial image recorded in the chip and his/her live facial image;
- (b) the travel document presented for the border crossing shall contain a facial image recorded in the chip which can be legally and technically accessed by the automated *border control* system so as to verify the identity of the holder of the travel document, by comparing the facial image recorded in the chip and his/her live facial image;
- (b) the travel document [...] shall contain a facial image recorded in the chip which can be [...]-technically accessed by the [...] self-service system so as to verify the identity of the holder of the travel document, by comparing the facial image recorded in the chip and his/her live facial image;
- (b) the travel document shall contain a facial image recorded in the chip which can be technically accessed by the <u>self-service</u> system so as to verify the identity of the holder of the travel document, by comparing the facial image recorded in the chip and his/her live facial image;

- (c) the person is already enrolled or pre-enrolled in the EES.
- 2. Where the conditions laid down in paragraph 1 are met, the checks on entry and exit provided for in Articles 8(2) and 8(3)(a) and (b) or Articles 8(2) and 8(3)(g) and (h) may be carried out through a self-service system. When carried out through an automated border control system, the borders check on exit shall include the checks provided for in Article 8(3)(h).
- (c) the person is already enrolled or pre-enrolled in the EES.
- 2. Where the conditions laid down in paragraph 1 are met, the *border* checks on entry and exit provided for in Articles 8(2) and 8(3)(a) and (b) or Articles 8(2) and 8(3)(g) and (h) may be carried out through a self-service system. When carried out through an automated border control system, the borders check on exit shall include the checks provided for in Article 8(3)(h).
- (c) the person is already enrolled or pre-enrolled in the EES.
- 2. Where the conditions laid down in paragraph 1 are met, the border checks on entry [...] provided for in Articles 8(2) and 8(3)(a) and (b) [...] and on exit provided for in Articles 8(2) and 8(3)(g) and (h) may be carried out through a self-service system. When carried out through an automated border control system, the borders check on exit shall include the checks provided for in Article 8(3)(h).

If a person is granted access to a national facilitation programme established by a Member State pursuant to Article 8e, the checks carried out through a self-service system on entry may omit the examination of the aspects referred to in Article 8(3)(a)(iv) and (v) when crossing the external borders of that

Provisionally agreed:

Provisionally agreed:

2. Where the conditions laid down in paragraph 1 are met, the border checks on entry provided for in Articles 8(2) and 8(3)(a) and (b) and on exit provided for in Articles 8(2) and 8(3)(g) and (h) may be carried out through a self-service system. When carried out through an automated border control system, the borders check on exit shall include the checks provided for in Article 8(3)(h).

Where a person is granted access to a national facilitation programme established by a Member State pursuant to Article 8e, the border checks carried out through a self-service system on entry may omit the examination of the aspects referred to in Article 8(3)(a)(iv) and (v) when

	2a. Where a person is granted access to a national facilitation programme established by a Member State pursuant to Article 8e, the border checks carried out through a self-service system on entry may not include examination of the aspects referred to in Article 8(3)(a) (iv) and (v) when crossing the external borders of that Member State or the external borders of another Member State having	Member State or the external borders of another Member State having concluded an agreement with the Member State which granted the access as referred to under Article 8e(8).	crossing the external borders of that Member State or the external borders of another Member State having concluded an agreement with the Member State which granted the access as referred to under Article 8e(8) [cross-reference to be checked]. Covered by par. 2 above.
	concluded an agreement as referred to in Article 8e(4) with that Member State.		
3. On entry and exit, the results of the border checks carried out through the self-service system shall be made available to a border guard. Taking into account the results of the border checks, this border guard shall authorise entry or exit or, otherwise, refer the person to a border guard.	3. On entry and exit, the results of the border checks carried out through the self-service system shall be made available to a border guard. Taking into account the results of the border checks, this border guard shall authorise entry or exit or, otherwise, refer the person to a border guard.	3. On entry and exit, the results of the border checks carried out through the self-service system shall be made available to a border guard. [] This border guard shall monitor the results of border checks and, taking into account these results, authorise the entry or exit or, otherwise, refer the person to a border guard who shall proceed with	Provisionally agreed: 3. On entry and exit, the results of the border checks carried out through the self-service system shall be made available to a border guard. This border guard shall monitor the results of border checks and, taking into account these results, authorise the entry or exit or, otherwise, refer the person to a border guard who

		further checks.	shall proceed with further checks.
4. The person shall be referred	4. The person shall be referred	4. The person shall be referred	
to a border guard in the following	to a border guard in the following	to a border guard in the following	
situations:	situations:	situations:	
(a) when one or several of the	(a) when one or several of the	(a) when one or several of the	
conditions listed under paragraph 1 is	conditions listed under paragraph 1 is	conditions listed under paragraph 1 is	
or are not fulfilled;	or are not fulfilled;	or are not fulfilled;	
(b) when the checks on entry or	(b) when the checks on entry or	(b) when the checks on entry or	
exit under paragraph 2 reveal that	exit under paragraph 2 reveal that	exit under paragraph 2 reveal that	
one or several of the entry or exit	one or several of the entry or exit	one or several of the entry or exit	
conditions are not met;	conditions are not met;	conditions are not met;	
(c) when the results of the checks	(c) when the results of the checks	(c) when the results of the checks	
on entry or exit under paragraph 2	on entry or exit under paragraph 2	on entry or exit under paragraph 2	
put into question the identity of the	put into question the identity of the	put into question the identity of the	
person or when they reveal that the	person or when they reveal that the	person or when they reveal that the	
person is considered to be a threat to	person is considered to be a threat to	person is considered to be a threat to	
the internal security, public policy,	the internal security, public policy,	the internal security, public policy,	
international relations of any of the	international relations of any of the	international relations of any of the	
Member States or to public health;	Member States or to public health;	Member States or to public health;	
(d) in case of doubt;	(d) in case of doubt;	(d) in case of doubt.	
(e) when no e-gates are available.	(e) when no e-gates are available.	(e) when no e-gates are available.	
5. In addition to the situations	5. In addition to the situations	5. In addition to the situations	
referred to in paragraph 4, the border	referred to in paragraph 4, the border	referred to in paragraph 4, the border	
guard supervising the border crossing	guard supervising the border crossing	guard supervising the border crossing	
may decide to refer persons using	may decide to refer persons using	may decide to refer persons using	
self-service system to a border guard	self-service system to a border guard	self-service system to a border guard	
based on other reasons.	based on other reasons.	based on other reasons.	
6. Persons whose border	6. Persons whose border	6. Persons whose border	
crossing is subject to a registration in	crossing is subject to a registration in	crossing is subject to a registration in	
the EES in accordance with Article	the EES in accordance with Article	the EES in accordance with Article	
6a(1) and who used a self-service	6a(1) and who used a self-service	6a(1) and who used a self-service	
system for the performance of their	system for the performance of their	system for the performance of their	

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border checks may be authorised to use an e-gate. Where an e-gate is used, the corresponding registration of the entry/exit record and the linking of that record to the concerned individual file pursuant to Article 13 of [Regulation establishing the Entry/Exit System (EES)] shall be carried out when performing the border crossing through the e-gate. Where the e-gate is not aggregated to the self- service system, a verification of the identity of the user shall take place at the egate in order to verify that the person using the e-gate corresponds to the person that used the self-service system. The verification shall be made by using at least one biometric identifier.

7. Where the conditions listed in Article 8d(1)(a) or (b), or in both, are not fulfilled, part of the border checks on entry and exit pursuant to Article 8(3)(a) and (b) as well as Article 8(3)(g) and (h) may be carried out through a self-service system. Where the border guard can technically retrieve, and is legally permitted to retrieve, the results of the border checks that were carried out through the self-service system and those results show that the

border checks may be authorised to use an e-gate. Where an e-gate is used, the corresponding registration of the entry/exit record and the/ linking of that record to the concerned individual file pursuant to Article 13 of [Regulation/ establishing the Entry/Exit System (EES)] shall be carried out when performing the border crossing through the e-gate. Where the e-gate is not aggregated to the self- service system, a verification of the identity of the user shall take place at the egate in order to verify that the person using the e-gate corresponds to the person that used the self-service system. The verification shall be made by using at least one biometric /identifier.

Article 8d(1)(a) or (b), or in both, are not fulfilled, part of the border checks on entry and exit pursuant to Article 8(3)(a) and (b) as well as Article 8(3)(g) and (b) may be carried out through a self-service system. Where the border guard can technically retrieve, and is legally permitted to retrieve, the results of the border checks that were carried out through the self-service system and those results show that the

border checks may be authorised to use an e-gate. Where an e-gate is used, the corresponding registration of the entry/exit record and the linking of that record to the concerned individual file pursuant to Article 13 of [Regulation establishing the Entry/Exit System (EES)] shall be carried out when performing the border crossing through the e-gate. Where the e-gate is not aggregated to the self- service system, a verification of the identity of the user shall take place at the egate in order to verify that the person using the e-gate corresponds to the person that used the self-service system. The verification shall be made by using at least one biometric identifier.

7. Where the conditions listed in [...] paragraph 1(a) or (b) of this Article, or in both, are not fulfilled, part of the border checks on entry pursuant to Article 8(3)(a) and (b) and exit pursuant to [...] Article 8(3)(g) and (h) may be carried out through a self-service system. [...] The border guard may perform only those verifications pursuant to Article 8(3)(a) and (b) as well as Article 8(3)(g) and (h) that could not be carried out through the self-

Provisionally agreed:

7. Where the conditions listed in paragraph 1(a) or (b) of this Article, or in both, are not fulfilled, part of the border checks on entry pursuant to Article 8(3)(a) and (b) and exit pursuant to Article 8(3)(g) and (h) may be carried out through a self-service system. The border guard may perform only those verifications pursuant to Article 8(3)(a) and (b) as well as Article 8(3)(g) and (h) that could not be carried out through the

outcomes of the checks are positive,	outcomes of the checks are positive.	service system. In addition, the	self-service system. In addition, the
the border guard may perform only	the border guard may perform only	border guard shall verify that the	border guard shall verify that the
those verifications pursuant to	those verifications pursuant to	travel document used at the self-	travel document used at the self-
Article 8(3)(a) and (b) as well as	Article 8(3)(a) and (b) as well as	service system corresponds to the	service system corresponds to the
Article 8(3)(g) and (h) that could not	Article 8(3)(g) and (h) that could not	one held by the person standing	one held by the person standing
be carried out through the self-	be carried out through the self-	before the border guard.	before the border guard.
service system. In addition, the	service system. In addition, the	5	E
border guard shall verify that the	border guard shall verify that the		Both the EP and the Council to
travel document used at the self-	travel document used at the self-		reflect on whether to add a reference
service system corresponds to the	service system corresponds to the		to Art. 8(2) in addition to Art. 8(3)
one held by the person standing	one held by the person standing		throughout the paragraph.
before the border guard.	before the border guard.		The state of the s
8. Self-service systems and e-	8. Self-service systems and e-	8. Self-service systems and e-	
gates shall be operated under the	gates shall be operated under the	gates shall be operated under the	
supervision of a border guard who	supervision of a border guard who	supervision of a border guard who	
shall be in charge of detecting any	shall be in charge of detecting any	shall be in charge of detecting any	
inappropriate, fraudulent or abnormal	inappropriate, fraudulent or abnormal	inappropriate, fraudulent or abnormal	
use of the system or e-gate, or both."	use of the system or e-gate, or both."	use of the system or e-gate, or both."	
, , , , , , , , , , , , , , , , , , ,	<i>g</i> ,		Presidency Compromise proposal (to balance proposed deletion of Article 8a and 8b):
			9. This Article is without
			prejudice to the possibility for
			Member States to allow for the use of
			self-service systems and/or e-gates
			for the border crossings by
			EU/EEA/CH citizens and by third
			country nationals whose border
			crossing is not subject to registration
			in the EES.
(8) The following Article 8e is	(8) The following Article 8e is	(8) The following Article 8e is	
inserted:	inserted:	inserted:	
"Article 8e	"Article 8e	"Article 8e	

National facilitation programmes	National facilitation programmes	National facilitation programmes	
1. Each Member State may	1. Each Member State may	1. Each Member State may	Provisionally agreed:
establish a voluntary programme in	establish a voluntary programme in	establish a voluntary programme in	1. Each Member State may
order to allow third country nationals	order to allow third country nationals	order to allow third country nationals	establish a voluntary programme in
as defined in Article 2(6) or nationals	as defined in Article 2(6) or nationals	[] or nationals of a specific third	order to allow third country nationals
of a specific third country who do not	of a specific third country who do not	country who do not enjoy the right of	or nationals of a specific third
benefit from the right of free	benefit from <i>enjoy</i> the right of free	<u>free movement under Union law</u> []	country who do not enjoy the right of
movement to benefit from the	movement under Union law to	to benefit from the facilitations made	<u>free movement under Union law</u> to
facilitations made pursuant to	benefit from the facilitations made	pursuant to paragraph 2 of this	benefit from the facilitations made
paragraph 2 of this Article when	pursuant to paragraph 2 of this	Article when crossing the external	pursuant to paragraph 2 of this
crossing the external border of a	Article when crossing the external	border of a Member State.	Article when crossing the external
Member State.	border of a Member State.		border of a Member State.
2. By way of derogation from	2. By way of derogation from	2. By way of derogation from	Provisionally agreed:
Article 8(3)(a), for third country	Article 8(3)(a), for third country	Article 8(3)(a), for third country	2. By way of derogation from
nationals referred to paragraph 1 of	nationals referred to paragraph 1 of	nationals referred to paragraph 1 of	Article 8(3)(a), for third country
this Article and who are granted	this Article and who are granted	this Article and who are granted	nationals referred to paragraph 1 of
access to the programme, the	access to the programme, the	access to the programme, the	this Article and who are granted
thorough checks on entry may not	thorough checks on entry may not	thorough checks on entry may not	access to the programme, the
include examination of the aspects	include examination of the aspects	include examination of the aspects	thorough checks on entry may not
referred to in Article 8(3)(a) (iv) and	referred to in Article 8(3)(a) (iv) and	referred to in Article 8(3)(a) (iv) and	include examination of the aspects
(v) when crossing the external border	(v) when crossing the external border	(v) when crossing the external border	referred to in Article 8(3)(a) (iv) and
of such a Member State if the	of such a Member State if the	of such a Member State [].	(v) when crossing the external border
following conditions are met:	following conditions are met:		of such a Member State.
(a) the Member State carries out	(a) the Member State carries out	2a. [] The Member State shall	Provisionally agreed:
a pre-vetting of the third country	a pre-vetting of the third country	carry out a pre-vetting of third	<u>2a.</u> <u>The Member State shall carry</u>
nationals applying to the programme;	nationals applying to the programme;	country nationals applying to the	out a pre-vetting of third country
		<u>programme</u>	nationals applying to the programme
			in order to verify in particular that
			the conditions referred to in
			paragraph 3 are fulfilled.
(b) the pre-vetting referred to in	(b) the pre-vetting referred to in	[] The pre-vetting is carried out by	Provisionally agreed:
point (a) is carried out by visa or	point (a) is carried out by visa or	border guards, visa authorities or by	The pre-vetting shall be carried out
border authorities within the meaning	border authorities within the meaning	<u>immigration authorities defined</u>	by border guards, visa authorities or

10545/17 ADD 2 RG/mdc 68 **EN**

of Article 4(3) of Regulation (EC)	of Article 4(3) of Regulation (EC)	under Article 3(1)(3) of Regulation	by immigration authorities defined
No 767/2008 or by authorities	No 767/2008 or by authorities	establishing the Entry/Exit system	under Article 3(1)(3) of Regulation
assigned, in accordance with national	assigned, in accordance with national	(EES);	establishing the Entry/Exit system
law, to carry out checks on persons at	law, to carry out checks on persons at		(EES)];
the external border crossing points in	the external border crossing points in		Council to check the deletion of the
accordance with this Regulation;	aecordance with this Regulation;		part in square brackets.
(c) the authorities referred to in	(c) the authorities referred to in	(c)3. The competent authorities of	Provisionally agreed:
paragraph (b) only grant access to the	paragraph (b) only grant access to the	a Member State [] only grant	(c) the authorities referred to in
programme when the following	programme when the following	access to the programme when the	paragraph 2a shall only grant access
minimum conditions are met:	minimum conditions are met:	following minimum conditions are	to the programme when the
		met:	following minimum conditions are
			met:
(i) the applicant fulfils the entry	(i) the applicant fulfils the entry	<u>a)</u> the applicant fulfils the entry	Provisionally agreed:
conditions set out in Article 6(1) of	conditions set out in Article 6(1) of	conditions set out in Article 6(1) of	<u>a)</u> the applicant fulfils the entry
this Regulation;	this Regulation;	this Regulation;	conditions set out in Article 6(1) of
			this Regulation;
(ii) the applicant's travel	(ii) the applicant's travel	b) the applicant's travel	
document, visa and/ or residence	document, visa and/ or residence	document, visa, [or a touring visa],	
permit presented, is or are valid and	permit presented, is or are valid and	long-stay visa and/ or residence	
not false, counterfeited or forged;	not false, counterfeited or forged;	permit presented, is or are valid and	
		not false, counterfeited or forged;	
(iii) the applicant proves the need	(iii) the applicant proves the need	<u>c)</u> the applicant proves the need	Provisionally agreed:
for or justifies the intention to travel	for or justifies the intention to travel	for or justifies the intention to travel	<u>c)</u> the applicant proves the need
frequently or regularly;	frequently or regularly;	frequently or regularly;	for or justifies the intention to travel
			frequently or regularly;
(iv) the applicant proves integrity	(iv) the applicant proves <i>his or</i>	<u>d</u>) the applicant proves integrity	Provisionally agreed:
and reliability, in particular, if	her integrity and reliability, in	and reliability, in particular, if	(iv) the applicant proves <i>his or</i>
applicable,, that previous visas with	particular, if where applicable, that	applicable, that previous visas with	<i>her</i> integrity and reliability, in
limited territorial validity have been	the lawful use of previous visas or	limited territorial validity have been	particular, if where applicable, that
lawfully used, the applicant's	visas with limited territorial validity	lawfully used, the applicant's	the lawful use of previous visas or
economic situation in the country of	have been lawfully used, the	economic situation in the country of	visas with limited territorial validity,
origin and the genuine intention to	applicant's economic situation in the	origin and the genuine intention to	his or her economic situation in the
leave the territory of the Member	country of origin and the genuine	leave the territory of the Member	country of origin and his or her

DG D 1A EN

States in due time. In accordance with Article 23 of [Regulation establishing the Entry/Exit System (EES)], the authorities referred to in paragraph b) of this Article shall have access to consult the EES to verify that the applicant has not previously exceeded the maximum duration of authorised stay in the territory of the Member States;	intention to leave the territory of the Member States in due time, his or her economic situation in the country of origin and his or her genuine intention to leave the territory of the Member States before the expiry of the visa, where applicable, or the end of the authorised period of stay. In accordance with Article 23 of	States in due time. In accordance with Article 23 of [Regulation establishing the Entry/Exit System (EES)], the competent authorities [] shall have access to consult the EES to verify that the applicant has not previously exceeded the maximum duration of authorised_stay in the territory of the Member States;	genuine intention to leave the territory of the Member States before the expiry of the visa, where applicable, or the end of the authorised period of stay. In accordance with Article 23 of [Regulation establishing the Entry/Exit System (EES)], the authorities referred to in paragraph 2a of this Article shall have access to
	[Regulation establishing the Entry/Exit System (EES)], the authorities referred to in paragraph b) of this Article shall have access to consult the EES to verify that the applicant has not previously exceeded the maximum duration of authorised stay in the territory of the Member States;		consult the EES to verify that the applicant has not previously exceeded the maximum duration of authorised stay in the territory of the Member States;
(v) the applicant justifies the purpose and conditions of the intended stays;	(v) the applicant justifies the purpose and conditions of the intended stays,	e) the applicant justifies the purpose and conditions of the intended stays;	Provisionally agreed: e) the applicant justifies the purpose and conditions of the intended stays;
(vi) the applicant possesses sufficient means of subsistence both for the duration of the intended stays and for the return to the country of origin or residence, or that the applicant is in a position to acquire such means lawfully;	(vi) the applicant possesses sufficient means of subsistence both for the duration of the intended stays and for the return to the country of origin or residence, or that the applicant is in a position to acquire such means lawfully;	f) the applicant possesses sufficient means of subsistence both for the duration of the intended stays and for the return to the country of origin or residence, or that the applicant is in a position to acquire such means lawfully;	Provisionally agreed: f) the applicant possesses sufficient means of subsistence both for the duration of the intended stays and for the return to the country of origin or residence, or that the applicant is in a position to acquire such means lawfully;
(vii) the applicant is not a person for whom an alert has been issued in	(vii) the applicant is not a person for whom an alert has been issued in	[]	Commission to propose drafting suggestions

the Schengen Information System (SIS);	the Schengen Information System (SIS);		
(viii) the applicant is not considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States, in particular where no alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds.	(viii) the applicant is not considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States, in particular where no alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds.	[]	Commission to propose drafting suggestions
(d) access to the programme shall be granted for a maximum of one year;	(d) access to the programme shalf be granted for a maximum of one year;	(d)4. First access to the programme shall be granted for a maximum of one year, and can be prolonged after this first year for a maximum of 5 more years or until the end of the validity period of the travel document, any issued multiple-entry visas, long-stay visas and residence permits, whichever is shorter;	Provisionally agreed: 4. First access to the programme shall be granted for a maximum of one year, and can be prolonged after this first year for a maximum of 5 more years or until the end of the validity period of the travel document, any issued multiple-entry visas, long-stay visas and residence permits, whichever is shorter;
(e) the Member State shall reassess every year the situation of each third country national who is granted access to the programme in order to ensure that, based on updated information, the applicant still meets the conditions laid down in Article 8e(2) (c);	(e) the Member State shall reassess every year the situation of each third country national who is granted access to the programme in order to ensure that, based on updated information, the applicant still meets the conditions laid down in Article 8e(2) (c);	In case of a prolongation the Member State shall reassess every year the situation of each third country national who is granted access to the programme in order to ensure that, based on updated information, the [] the third country national concerned still meets the conditions laid down in [] paragraph 3. This reassessment could be performed at the occasion of border checks.	Provisionally agreed: In case of a prolongation the Member State shall reassess every year the situation of each third country national who is granted access to the programme in order to ensure that, based on updated information, the the third country national concerned still meets the conditions laid down in paragraph 3. This reassessment could be performed at the occasion of border checks.

(f) the thorough checks on entry and exit pursuant to Articles 8(3)(a) and 8(3)(b) shall also comprise verification of the identity of the third country national benefiting from the programme and the fact that the third country has a valid access to the programme;	(f) the thorough checks on entry and exit pursuant to Articles 8(3)(a) and 8(3)(b) shall also comprise verification of the identity of the third country national benefiting from the programme and the fact that the third country has a valid access to the programme;	pursuant to Articles 8(3)(a) and 8(3)(b) and on exit pursuant to Article 8(3)(g) shall also comprise [] the fact that the third country has a valid access to the programme; Border guards may carry out verification of the third country national benefiting from the programme on entry pursuant to Articles 8(3)(a) and 8(3)(b) and on exit pursuant to Article 8(3)(g) without comparing electronically biometrics, but by comparing a facial image taken from the chip and the facial image of the passenger's individual EES file with a passenger. Full verification shall be carried out at random and on the basis of risk analysis.	5. The [thorough] checks on entry pursuant to Articles 8(3)(a) and 8(3)(b) and on exit pursuant to Article 8(3)(g) shall also comprise [verification of the identity of the third country national benefiting from the programme and] the fact that the third country has a valid access to the programme; [Border guards may carry out verification of the third country national benefiting from the programme on entry pursuant to Articles 8(3)(a) and 8(3)(b) and on exit pursuant to Article 8(3)(g) without comparing electronically biometrics, but by comparing a facial image taken from the chip and the facial image of the passenger's individual EES file with a passenger. Full verification shall be carried out at random and on the basis of risk analysis.]
 (g) the authorities referred to in paragraph (b) shall immediately revoke the access granted to a third country national to the programme: (i) if it becomes evident that the conditions for granting access to the programme were not met; 	(g) the authorities referred to in paragraph (b) shall immediately revoke the access granted to a third country national to the programme: (i) if it becomes evident that the conditions for granting access to the programme were not met;	(g)6. The competent authorities of a Member State [] shall immediately revoke the access granted to a third country national to the programme: (i) if it becomes evident that the conditions for granting access to the programme were not met; or	Provisionally agreed: 6. The authorities referred to in paragraph 2a shall immediately revoke the access granted to a third country national to the programme: Provisionally agreed: (i) if it becomes evident that the conditions for granting access to the programme were not met; or
(ii) if it becomes evident that the	(ii) if it becomes evident that the	(ii) if it becomes evident that the	

conditions for granting access to the programme are no longer met.

When verifying that the applicant fulfils conditions set out in points (a), (b) and (c), particular consideration shall be given to assessing whether the applicant presents a risk of illegal immigration or a risk to the security of the Member State(s) and whether the applicant intends to leave the territory of the Member State(s) during the authorised stay.

during the authorised stay. The means of subsistence for the intended stays shall be assessed according to the duration(s) and the purpose(s) of the envisaged stay(s) and by reference to average prices in the Member State(s) concerned for board and lodging in budget accommodation, on the basis of the reference amounts set by the Member States in accordance with Article 39(1)(c). A proof of sponsorship or private accommodation, or both, may also constitute evidence of sufficient means of subsistence.

The examination of an application shall be based in particular on the authenticity and reliability of the documents submitted and on the veracity and reliability of the statements made by the applicant. If a Member State responsible for

conditions for granting access to the programme are no longer met.

When verifying that the applicant

fulfils conditions set out in points (a), (b) and (c), particular consideration/ shall be given to assessing whether the applicant presents a risk of illegal immigration or a risk to the security of the Member State(s) and whether the applicant intends to leave the territory of the Member State(s) during the authorised stay. The means of subsistence for the intended stays shall be assessed according to the duration(s) and the purpose(s) of the envisaged stay(s) and by reference to average prices in the Member State(s) concerned for board and lodging in budget accommodation, on the basis of the reference amounts set by the Member States in accordance with Article 39(1)(c). A proof of sponsorship or private accommodation, or both, may also constitute evidence of sufficient means of subsistence. The examination of an application shall be based in particular on the authenticity and reliability of the documents submitted and on the veracity and reliability of the

statements made by the applicant. If

/a Member State responsible for

conditions for granting access to the programme are no longer met.

When verifying that the applicant fulfils conditions set out in [...] paragraph 3, particular consideration shall be given to assessing whether the applicant presents a risk of illegal immigration or a risk to the security of the Member State(s) and whether the applicant intends to leave the territory of the Member State(s) during the authorised stay. The means of subsistence for the intended stays shall be assessed according to the duration(s) and the purpose(s) of the envisaged stay(s) and by reference to average prices in the Member State(s) concerned for board and lodging in budget accommodation, on the basis of the reference amounts set by the Member States in accordance with Article 39(1)(c). A proof of sponsorship or private accommodation, or both, may also constitute evidence of sufficient means of subsistence. The examination of an application shall be based in particular on the authenticity and reliability of the documents submitted and on the veracity and reliability of the

statements made by the applicant. If

Compromise text provisionally agreed:

7. When verifying in accordance with paragraph 2a that the applicant fulfils conditions set out in paragraph 3, particular consideration shall be given to assessing whether the applicant presents a risk of illegal immigration or a risk to the security of the Member State(s) and whether the applicant intends to leave the territory of the Member State(s) during the authorised stay. The means of subsistence for the intended stays shall be assessed according to the duration(s) and the purpose(s) of the envisaged stay(s) and by reference to average prices in the Member State(s) concerned for board and lodging in budget accommodation, on the basis of the reference amounts set by the Member States in accordance with Article 39(1)(c). A proof of sponsorship or private accommodation, or both, may also constitute evidence of sufficient means of subsistence. The examination of an application shall be based in particular on the

authenticity and reliability of the

examining an application has any doubts about the applicant, the applicant's statements or supporting documents that have been provided, it may consult other Member States before any decision on the application is taken.	examining an application has any doubts about the applicant, the applicant's statements or supporting documents that have been provided, it may consult other Member States before any decision on the application is taken.	a Member State responsible for examining an application has any doubts about the applicant, the applicant's statements or supporting documents that have been provided, it may consult other Member States before any decision on the application is taken.	documents submitted and on the veracity and reliability of the statements made by the applicant. If a Member State responsible for examining an application has any doubts about the applicant, the applicant's statements or supporting documents that have been provided, it may consult other Member States before any decision on the application is taken.
4. Two or more Member States having established their own national programme pursuant to this Article may conclude among them an agreement in order to ensure that the beneficiaries of their national programmes may benefit from the facilitations recognised by the other national programme(s). Within the time-limit of one month from the conclusion of the agreement, a copy of the agreement shall be transmitted to the Commission.	4. Two or more Member States having established their own national programme pursuant to this Article may conclude among them an agreement in order to ensure that the beneficiaries of their national programmes may benefit from the facilitations recognised by the other national programme(s). Within the time-limit of one month from the conclusion of the agreement, a copy of the agreement shall be transmitted to the Commission.	4-8. Two or more Member States having established their own national programme pursuant to this Article may conclude among them an agreement in order to ensure that the beneficiaries of their national programmes may benefit from the facilitations recognised by the other national programme(s). Within the time-limit of one month from the conclusion of the agreement, a copy of the agreement shall be transmitted to the Commission.	Provisionally agreed: 8. Two or more Member States having established their own national programme pursuant to this Article may conclude among them an agreement in order to ensure that the beneficiaries of their national programmes may benefit from the facilitations recognised by the other national programme(s). Within the time-limit of one month from the conclusion of the agreement, a copy of the agreement shall be transmitted to the Commission.
	4a. In the case of third-country nationals benefiting from a national facilitation programme, border guards may carry out the verifications on entry pursuant to Article 8(3)(a) and (b) and on exit pursuant to Article 8(3)(g) without electronically comparing biometrics		Covered under par. 5 above.

	but by comparing a facial image taken from the chip and the facial image of the third country national's individual EES file with the third-country national. Full verification shall be carried out at random and on the basis of a risk analysis.		
	4b. An adequate level of security shall be established between national facilitation programmes and the EES following a proper information security risk assessment.		EP amendment withdrawn.
	4c. When establishing such a national facilitation programme, Member States shall, in close cooperation with eu-LISA, ensure data security standards equivalent to those laid down in Article 39 of [Regulation establishing the Entry/Exit System (EES)]. Member States shall conduct a proper information security risk assessment and security responsibilities shall be made clear for all steps of the process.		4c. When establishing such a national facilitation programme, Member States shall, in close cooperation with cu-LISA, ensure that their system operating the programme meets the data security standards equivalent to those laid down in Article 39 of [Regulation establishing the Entry/Exit System (EES)]. Member States shall conduct a proper information security risk assessment and security responsibilities shall be made clear for all steps of the process.
5. The Commission shall, before	5. The Commission shall, before	59. The Commission shall, before	Provisionally agreed:
the end of the third year of	the end of the third year of	the end of the third year of	9. The Commission shall, before
application of this Article, transmit to the European Parliament and to the	application of this Article, transmit to the European Parliament and to the	application of this Article, transmit to the European Parliament and to the	the end of the third year of application of this Article, transmit to
Council an evaluation of its	Council an evaluation of its	Council an evaluation of its	the European Parliament and to the
implementation. On the basis of that	implementation. On the basis of that	implementation. On the basis of that	Council an evaluation of its

evaluation, the European Parliament	evaluation, the European Parliament	evaluation, the European Parliament	implementation. On the basis of that
or the Council may invite the	or the Council may invite the	or the Council may invite the	evaluation, the European Parliament
Commission to propose the	Commission to propose the	Commission to propose the	or the Council may invite the
establishment of a Union programme	establishment of a Union programme	establishment of a Union programme	Commission to propose the
for frequent and pre-vetted third	for frequent and pre-vetted third	for frequent and pre-vetted third	establishment of a Union programme
country national travellers."	country national travellers."	country national travellers."	for frequent and pre-vetted third
			country national travellers."
(9) Article 9 is amended as	(9) Article 9 is amended as	(9) Article 9 is amended as	
follows:	follows:	follows:	
(a) Paragraph 3 is replaced by the	(a) Paragraph 3 is replaced by the	(a) Paragraph 3 is replaced by the	
following:	following:	following:	
"3. Even in the event that checks	"3. Even in the event that checks	"3. Even in the event that checks	
are relaxed, the border guard shall	are relaxed, the border guard shall	are relaxed, the border guard shall	
enter the data in the EES, in	enter the data in the EES, in	enter the data in the EES, in	
accordance with Article 6a. Where	accordance with Article 6a. Where	accordance with Article 6a. Where	
the data cannot be entered by	the data cannot be entered by	the data cannot be entered by	
electronic means it shall be entered	electronic means it shall be entered	electronic means it shall be entered	
manually."	manually."	manually."	
(b) The following paragraph 3a is	(b) The following paragraph 3a is	(b) The following paragraph 3a is	
inserted:	inserted:	inserted:	
"3a. In case of technical	"3a. In case of technical	"3a. In case of technical	
impossibility to enter data in the	impossibility to enter data in the	impossibility to enter data in the	
Central System of the EES or in case	Central System of the EES or in case	Central System of the EES or in case	
of failure of the Central System of	of failure of the Central System of	of failure of the Central System of	
the EES, the following provisions	the EES, the following provisions	the EES, the following provisions	
shall apply:	shall apply:	shall apply:	
(i) by way of derogation from Article	(i) by way of derogation from Article	(i) by way of derogation from Article	Provisionally agreed
6a of this Regulation, the data	6a of this Regulation, the data	6a of this Regulation, the data	(i) by way of derogation from Article
referred to in Articles 14, 15, 16, 17	referred to in Articles 14, 15, 16, 17	referred to in Articles 14, 15, 16, 17	6a of this Regulation, the data
and 18 of [Regulation establishing	and 18 of [Regulation establishing	and 18 of [Regulation establishing	referred to in Articles 14, 15, 16, 17
the Entry/Exit System (EES)] shall	the Entry/Exit System (EES)] shall	the Entry/Exit System (EES)] shall	and 18 of [Regulation establishing
be temporally stored in the National	be temporally stored in the National	be [] temporarily stored in the	the Entry/Exit System (EES)] shall

Uniform Interface as defined in Article 6 of [Regulation establishing the Entry/Exit System (EES)]. If this is not possible, the data shall be temporarily stored locally. In both situations, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources in order 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 defined in Article 6 of [Regulation establishing/ the Entry/Exit System (EES)]. If this is not possible, the data shall be temporarily stored locally. In both situations, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources in order to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points:

National Uniform Interface as defined in Article 6 of [Regulation establishing the Entry/Exit System (EES)]. If this is not possible, the data shall be temporarily stored locally. In [...] all cases, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources in order to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points;

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 the exemption of biometric data and in addition affix an entry or exit stamp in the travel document of the third country national. These manually stored data shall be entered in the system as soon as possible.

be [...] temporarily stored in the National Uniform Interface as defined in Article 6 of [Regulation establishing the Entry/Exit System (EES)]. If this is not possible, the data shall be temporarily stored locally. In **both situations**, the data shall be entered into the Central System of the EES as soon as the technical impossibility or failure has been remedied. Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources in order to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points;

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 technically impossible to temporarily store the data locally in an electronic format, shall manually store entry/exit data in accordance with 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. 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 61(2).
(ii) by way of derogation from	(ii) by way of derogation from	(ii) by way of derogation from	
Articles $8(3)(a)(iii)$ and $8(3)(g)(iv)$	Articles 8(3)(a)(iii) and 8(3)(g)(iv)	Articles 8(3)(a)(iii) and 8(3)(g)(iv)	
for nationals of third countries	for nationals of third countries	for nationals of third countries	
holding a visa [or a touring visa]	holding a visa [or a touring visa]	holding a visa [or a touring visa]	
referred to in Article 6(1)(b), when	referred to in Article 6(1)(b), when	referred to in Article 6(1)(b), when	
technically possible, the verification	technically possible, the verification	technically possible, the verification	
of the identity of the holder of the	of the identity of the holder of the	of the identity of the holder of the	
visa shall be carried out by	visa shall be carried out by	visa shall be carried out by	
consulting directly the VIS in	consulting directly the VIS in	consulting directly the VIS in	
accordance with Article 18 of	accordance with Article 18 of	accordance with Article 18 of	
Regulation (EC) No 767/2008."	Regulation (EC) No 767/2008."	Regulation (EC) No 767/2008."	
(10) In Article 10, the following	(10) In Article 10, the following	(10) In Article 10, the following	Provisionally agreed:
paragraph 3a is added:	paragraph 3a is added:	paragraphs 3a and 3aa are []	(10) In Article 10, the following
		added:	paragraphs 3a and 3aa are []
			added:
"3a. Where Member States decide to	"3a. Where Member States decide to	"3a. Where Member States decide	Provisionally agreed:
use automated border control	use automated border control	to use automated border control	"3a. Where Member States decide
systems, e-gates or self-service	systems, e-gates or self-service	systems, e-gates <u>and</u> /or self-service	to use automated border control

systems, or both, they shall use the signs provided for in part D of Annex III to identify the respective lanes."	systems, or both, they shall use the signs provided for in part D of Annex III to identify the respective lanes."	systems, [] they shall use the signs provided for in part D of Annex III to identify the respective lanes."	systems, e-gates <u>and</u> /or self-service systems, [] they shall use the signs provided for in part D of Annex III to identify the respective lanes."
	(10a) In Article 10, the following		Covered above
	paragraph 3aa is added:	2 371 34 1 64 1 11	D
	3aa. Where Member States decide	3aa Where Member States decide	Provisionally agreed:
	to establish a national facilitation	to establish a national facilitation	3aa. Where Member States decide to establish a national facilitation
	programme in accordance with	programme in accordance with	
	Article 8e, they may decide to use	Article 8e, they may decide to use	programme in accordance with
	specific lanes for third-country nationals who benefit from such a	specific lanes for the third country nationals benefiting from such	Article 8e, they may decide to use specific lanes for the third country
	nationals who benefit from such a national facilitation programme."	national facilitation programme.	nationals benefiting from such
	handrai jacimanon programme.	national facilitation programme.	national facilitation programme.
			They shall use the signs provided
			for in part E of Annex III to
			identify the respective lanes.
(11) Article 11 is replaced by the	(11) Article 11 is replaced by the	(11) Article 11 is replaced by the	
following:	following:	following:	
"Article 11	"Article 11	"Article 11	
Stamping of travel documents	Stamping of travel documents	Stamping of travel documents	
1. Where provided expressly by	1. Where provided expressly by	1. Where provided expressly by	Provisionally agreed:
its national legislation, a Member	its national legislation, a Member	its national legislation, a Member	1. Where provided expressly by
State may stamp on entry and exit the	State may stamp on entry and exit the	State may stamp on entry and exit the	its national legislation, a Member
travel document of third country	travel document of third country	travel document of third country	State may stamp on entry and exit the
nationals holding a residence permit	nationals holding a residence permit	nationals holding a residence permit	travel document of third country
issued by that Member State.	issued by that Member State.	or long-stay visa issued by that	nationals holding a residence permit
		Member State.	or long-stay visa issued by that
			Member State.
		<u>1a.</u> The travel document of a	Provisionally agreed:
		third-country national holder of a	1a. The travel document of a
		Facilitated Rail Transit Document	third-country national holder of a

		issued in accordance with Regulation (EC) 693/2003 and the travel document of third country nationals holders of a valid Facilitated Transit Document issued in accordance with Regulation (EC) No 693/2003 who perform their transit by train and who do not disembark in the territory of a Member State shall be stamped on entry and exit.	Facilitated Rail Transit Document issued in accordance with Regulation (EC) 693/2003 and the travel document of third country nationals holders of a valid Facilitated Transit Document issued in accordance with Regulation (EC) No 693/2003 who perform their transit by train and who do not disembark in the territory of a Member State shall be stamped on
2 50		2 771	entry and exit.
2. The practical arrangements for stamping are set out in Annex IV".	2. The practical arrangements for stamping are set out in Annex IV".	2. The practical arrangements for stamping are set out in Annex IV".	
(12) Article 12 is replaced by the	(12) Article 12 is replaced by the	(12) Article 12 is replaced by the	
following:	following:	following:	
"Article 12	"Article 12	"Article 12	Provisionally agreed:
Presumptions as regards fulfilment	Presumptions as regards fulfilment	[]Presumption as regards	"Article 12
of conditions of duration of stay	of conditions of duration of stay	fulfilment of conditions of duration of	[]Presumption as regards
		short stay	fulfilment of conditions of duration of
			short stay
1. Without prejudice to Article	1. Without prejudice to Article	1. Without prejudice to Article	LIBE suggested compromise
12a, if a third country national	12a, if a third country national	12a, if a third country national	1. Without prejudice to Article
present on the territory of a Member	present on the territory of a Member	present on the territory of a Member	12a, if a third country national
State is not registered in the EES or	State is not registered in the EES or	State [] has no individual file	present on the territory of a Member
the entry/exit record of the person	the entry/exit record of the person	<u>created in the EES</u> or the <u>last</u>	State [] has no individual file
does not contain an exit date	does not contain an exit date	entry/exit record is not relevant [],	created in the EES or there is no last
following the date of expiry of the	following the date of expiry of the	the competent authorities may	relevant entry/exit record or the last
authorised length of stay, the	authorised length of stay, the	presume that the person does not	entry/exit record is not relevant [],
competent authorities may presume	competent authorities may presume	fulfil, or no longer fulfils, the	the competent authorities may
that the person does not fulfil, or no	that the person does not fulfil, or no	conditions [] of duration of	presume that the person third
longer fulfils, the conditions relating	longer fulfils, the conditions relating	authorised stay [] within the	country national does not fulfil, or
to duration of stay on the territory of	to duration of stay on the territory of	territory of the Member States.	no longer fulfils, the conditions []

		1	
the Member States.	the Member States.	In addition, without prejudice to	of duration of authorised stay []
		Article 12a, the competent authorities	within the territory of the Member
		may presume that a third country	States.
		national did not fulfil the conditions	In addition, without prejudice to
		relating to the duration of the	Article 12a, the competent authorities
		previous stay if during the	may presume verify whether that a
		performance of the border checks on	third country national did-not fulfil
		entry it results that the previous	the conditions relating to the duration
		entry/exit record of the third country	of the previous stay if during the
		national does not contain an exit	performance of the border checks on
		date.	entry it results that the previous
			entry/exit record of the third country
			national does not contain an exit
			date.
2. This presumption shall not	2. This presumption shall not	2. This presumption shall not	Provisionally agreed:
apply to a third country national who	apply to a third country national who	apply to a third country national who	2. This presumption shall not
can provide, by any means, credible	can provide, by any means, credible	can provide, by any means, credible	apply to a third country national who
evidence that the person enjoys the	evidence that the person enjoys the	evidence that <u>he or she</u> [] enjoys	can provide, by any means, credible
right of free movement under Union	right of free movement under Union	the right of free movement under	evidence that he or she [] enjoys
law or that the person holds a	law or that the person holds a	Union law or that he or she []	the right of free movement under
residence permit or a long stay visa.	residence permit or a long stay visa.	holds a residence permit or a long	Union law or that he or she []
Where applicable, Article 32 of	Where applicable, Article 32 of	stay visa. Where applicable, Article	holds a residence permit or a long
[Regulation establishing the	[Regulation establishing the	32 of [Regulation establishing the	stay visa. Where applicable, Article
Entry/Exit System (EES)] shall be	Entry/Exit System (EES)] shall be	Entry/Exit System (EES)] shall be	32 of [Regulation establishing the
applied.	applied.	applied.	Entry/Exit System (EES)] shall be
			applied.
3. The presumption referred to	3. The presumption referred to	3. The presumption referred to	Provisionally agreed:
in paragraph 1 may be rebutted	in paragraph 1 may be rebutted	in paragraph 1 may be rebutted	3. The presumption referred to
where the person provides, by any	where the person provides, by any	where the [] third country national	in paragraph 1 may be rebutted
means, credible evidence, such as	means, credible evidence, such as	provides, by any means, credible	where the [] third country national
transport tickets or proof of his or her	transport tickets or proof of his or her	evidence, such as transport tickets or	provides, by any means, credible
presence outside the territory of the	presence outside the territory of the	proof of his or her presence outside	evidence, such as transport tickets or
Member State or of the date of expiry	Member State or of the date of expiry	the territory of the Member States or	proof of his or her presence outside

of a previous residence permit or long stay visa, that he or she has respected the conditions relating to the duration of a short stay. In such situations the competent authorities shall apply the procedure laid down in Article 18 of [Regulation establishing the Entry/Exit System (EES)].

of a previous residence permit or long stay visa, that he or she has respected the conditions relating to the duration of a short stay. In such situations the competent authorities shall apply the procedure laid down in Article 18 of [Regulation establishing the Entry/Exit System (EES)].

of the date of expiry of a previous residence permit or long stay visa, that he or she has respected the conditions relating to the duration of a short stay.

In such [...] a case the competent authorities shall [...]create an individual file if necessary or indicate in the Entry/Exit System the date on which, and the place where, he or she crossed the external border of one of the Member States in accordance with Article 18 of [Regulation establishing the Entry/Exit System (EES)];

the territory of the Member States or of the date of expiry of a previous residence permit or long stay visa, that he or she has respected the conditions relating to the duration of a short stay.

In such [...] a case the competent authorities shall [...]create an individual file if necessary or indicate in the Entry/Exit System the date on which, and the place where, he or she crossed the external border of one of the Member States in accordance with Article 18 of [Regulation establishing the Entry/Exit System (EES)];

If the presumption referred to in paragraph 1 is not rebutted, the third country national may be expelled by the competent authorities from the territory of the Member States concerned.

A third country national who establishes that he or she enjoys the right of free movement under Union law may only be expelled by the competent border and immigration authorities of the territory of the Member State concerned in accordance with Directive

If the presumption referred to in paragraph 1 is not rebutted, the third country national may be expelled by the competent authorities from the territory of the Member States concerned.

A third country national who establishes that he or she enjoys the right of free movement under Union law may only be expelled by the competent border and immigration authorities of the territory of the Member State concerned in accordance with Directive

Should the presumption referred to in paragraph 1 not be rebutted, the third-country national may be X returned in accordance with Directive 2008/115/EC¹⁵ and with national law respecting that Directive. [...]

A third country national [...] enjoying the right of free movement under Union law may only be [...] returned [...] in accordance with Directive 2004/38/EC."

LIBE Suggested compromise

Should the presumption referred to in paragraph 1 not be rebutted, a third country national present on the territory of the Member States the third-country national may be returned in accordance with Directive 2008/115/EC and with national law respecting that Directive. [...] A third country national [...] enjoying the right of free movement under Union law may only be [...] returned [...] in accordance with

<u>15</u> 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).

2004/38/EC."	2004/38/EC."		Directive 2004/38/EC."
(13) The following Article 12a is	(13) The following Article 12a is	(13) The following Article 12a is	
inserted:	inserted:	inserted:	
"Article 12a	"Article 12a	"Article 12a	
Transitional period and transitional	Transitional period and transitional	Transitional period and transitional	
measures	measures	measures	
1. For a period of six months	1. For a period of six months	1. For a period of six months	Provisionally agreed:
after the EES has started operations,	after the EES has started operations,	after the EES has started operations,	1. For a period of <i>180 days</i> six
in order to verify at entry that a	in order to verify at entry that a	in order to verify at entry that a	months after the EES has started
person has not exceeded the number	person has not exceeded the number	person has not exceeded the number	operations, in order to verify at entry
of entries authorised by the single or	of entries authorised by the single or	of entries authorised by the single or	that a person has not exceeded the
double entry visa and to verify at	double entry visa and to verify at	double entry visa and to verify at	number of entries authorised by the
entry and at exit that a person	entry and at exit that a person	entry and at exit that a person	single or double entry visa and to
entering for a short stay has not	entering for a short stay has not	entering for a short stay has not	verify at entry and at exit that a
exceeded the length of the maximum	exceeded the length of the maximum	exceeded the length of the maximum	person entering for a short stay has
authorised stay, the competent border	authorised stay, the competent border	authorised_stay, the [] border	not exceeded the length of the
authorities shall take into account the	authorities shall take into account the	guards [] shall take into account	maximum authorised stay, the []
stays in the territories of the Member	stays in the territories of the Member	the stays in the territories of the	border guards [] shall take into
States during the 180 days preceding	States during the 180 days preceding	Member States during the 180 days	account the stays in the territories of
the entry or the exit by checking the	the entry or the exit by checking the	preceding the entry or the exit by	the Member States during the 180
stamps in the travel documents in	stamps in the travel documents in	checking the stamps in the travel	days preceding the entry or the exit
addition to the entry/exit data	addition to the entry/exit data	documents in addition to the	by checking the stamps in the travel
recorded in the EES.	recorded in the EES.	entry/exit data recorded in the EES.	documents in addition to the
			entry/exit data recorded in the EES.
2. Where a person has entered	2. Where a person has entered	2. Where a person has entered	
the territory of the Member States	the territory of the Member States	the territory of the Member States	
and has not yet exited it before the	and has not yet exited it before the	and has not yet exited it before the	
EES started operations, an individual	EES started operations, an individual	EES started operations, an individual	
file shall be created in the EES and	file shall be created in the EES and	file shall be created in the EES and	
the date of that entry shall be entered	the date of that entry shall be entered	the date of that entry shall be entered	
in the entry/exit record in accordance	in the entry/exit record in accordance	in the entry/exit record in accordance	
with Article 14(2) of [Regulation	with Article 14(2) of [Regulation	with Article 14(2) of [Regulation	
establishing the Entry/Exit System	establishing the Entry/Exit System	establishing the Entry/Exit System	

(EES)] when the person exits. This	(EES)] when the person exits. This	(EES)] when the person exits. This	
rule shall not be limited to the six	rule shall not be limited to the six	rule shall not be limited to the six	
months after the EES has started	months after the EES has started	months after the EES has started	
operations referred to in paragraph 1.	operations referred to in paragraph 1.	operations referred to in paragraph 1.	
In case of discrepancy between the	In case of discrepancy between the	In case of discrepancy between the	
date of the entry stamp and the data	date of the entry stamp and the data	date of the entry stamp and the data	
recorded in the EES, the concerned	recorded in the EES, the concerned	recorded in the EES, the concerned	
stamp shall prevail."	stamp shall prevail."	stamp shall prevail."	
(14) Article 14 is amended as	(14) Article 14 is amended as	(14) Article 14 is amended as	
follows:	follows:	follows	
(a) in paragraph 2 the following	(a) in paragraph 2 the following	(a) in paragraph 2 the following	
third subparagraph is added:	third subparagraph is added:	third subparagraph is added:	
"Data on third country nationals	"Data on third country nationals	"Data on third country nationals	Provisionally agreed:
whose entry for a short stay [or on	whose entry for a short stay [or on	whose entry for a short stay [] has	"Data on third country nationals
the basis of a touring visa] has been	the basis of a touring visa has been	been refused shall be registered in	whose entry for a short stay [] has
refused shall be registered in the EES	refused shall be registered in the EES	the EES in accordance with Article	been refused shall be registered in
in accordance with Article 6a(2) of	in accordance with Article 6a(2) of	6a(2) of this Regulation and Article	the EES in accordance with Article
this Regulation and Article 16 of	this Regulation and Article 16 of	16 of [Regulation establishing the	6a(2) of this Regulation and Article
[Regulation establishing the	[Regulation establishing the	Entry/Exit System (EES)]."	16 of [Regulation establishing the
Entry/Exit System (EES)]."	Entry/Exit System (EES)]."		Entry/Exit System (EES)]."
(b) in paragraph 3 the third	(b) in paragraph 3 the third	(b) in paragraph 3 the third	
subparagraph is replaced by the	subparagraph is replaced by the	subparagraph is replaced by the	
following:	following:	following:	
"Without prejudice to any	"Without prejudice to any	"Without prejudice to any	
compensation granted in accordance	compensation granted in accordance	compensation granted in accordance	
with national law, the third country	with national law, the third country	with national law, the third country	
national concerned shall, where the	national concerned shall, where the	national concerned shall, where the	
appeal concludes that the decision to	appeal concludes that the decision to	appeal concludes that the decision to	
refuse entry was ill-founded, be	refuse entry was ill-founded, be	refuse entry was ill-founded, be	
entitled to correction of the data	entitled to correction of the data	entitled to correction of the data	
inserted into the EES or of the	inserted into the EES or of the	inserted into the EES or of the	
cancelled entry stamp, or both, and	cancelled entry stamp, or both, and	cancelled entry stamp, or both, and	
any other cancellations or additions	any other cancellations or additions	any other cancellations or additions	

which have been made, by the	which have been made, by the	which have been made, by the	
Member State which refused entry."	Member State which refused entry."	Member State which refused entry."	
		(14a) Article 20 is amended as	Provisionally agreed:
		follows	(14a) Article 20 is amended as
			<u>follows</u>
		Paragraph 1(a) is replaced by the	Provisionally agreed:
		<u>following:</u>	Paragraph 1(a) is replaced by the
			following:
		"Heads of State, heads of	Provisionally agreed:
		government and members of national	(i) Heads of State, Heads of
		government with accompanying	Government and the members of
		spouses, sovereigns and other senior	national government with
		members of a royal family and	accompanying spouses, sovereigns
		members of their delegation(s);"	and other members of a royal family
			and members of their delegation;
	(14a) In Article 37, paragraph 2 is		
	replaced by the following:		
	"2. The power to adopt delegated		
	acts referred to in Article 8aa, Article		
	13(5) and Article 36 shall be		
	conferred on the Commission for an		
	indeterminate period of time."		
	(14b) In Article 37, paragraph 3 is		
	replaced by the following:		
	"3. The delegation of powers		
	referred to in Article 8aa, Article		
	13(5) and Article 36 may be revoked		
	at any time by the European		
	Parliament or by the Council. A		
	decision to revoke shall put an end to		
	the delegation of the power specified		
	in that decision. It shall take effect		

the day following the publication of	
the decision in the Official Journal of	
the European Union or at a later date	
specified therein. It shall not affect	
the validity of any delegated acts	
already in force."	
(14c) In Article 37, the following	
paragraph 3a is added:	
3a. Before adopting a delegated	
act, the Commission shall consult	
experts designated by each Member	
State in accordance with the	
principles laid down in the	
Interinstitutional Agreement of 13	
April 2016 on Better Law-Making*.	
* OJ L 123, 12.5.2016, p. 1.	
(14d) In Article 37, paragraph 5 is	
replaced by the following:	
"5. A delegated act adopted	
pursuant to <i>Article 8aa</i> , Article 13(5)	
and Article 36 shall enter into force	
only if no objection has been	
expressed either by the European	
Parliament or the Council within a	
period of two months of notification	
of that act to the European	
Parliament and the Council or if,	
before the expiry of that period, the	
European Parliament and the Council	
have both informed the Commission	
that they will not object. That period	
shall be extended by two months at	

DG D 1A

	the initiative of the European		
(12)	Parliament or of the Council."	(4.5)	
(15) Annexes III, IV and V are	(15) Annexes III, IV and V are	(15) Annexes III, IV, []V and	Provisionally agreed:
amended in accordance with the	amended in accordance with the	VII are amended in accordance with	(15) Annexes III, IV, V and VII
Annex to this Regulation	Annex to this Regulation	the Annex to this Regulation	are amended in accordance with the
			Annex to this Regulation
	(15a) In Annex VII, point 1 is		See Annex VII further below
	replaced by the following:		
	1. Heads of State <i>and heads of</i>		See Annex VII further below
	government		
	By way of derogation from Article 6		
	and Articles 8 to 14, Heads of State,		
	heads of government and the		
	members of their delegation		
	delegations, whose arrival and		
	departure have been officially		
	announced through diplomatic		
	channels to the border guards, may		
	not be subject to border checks.		
(16) Annex VIII is deleted.	(16) Annex VIII is deleted.	(16) Annex VIII is deleted.	
		(17) <u>Annex IX is added.</u>	
Article 2	Article 2	Article 2	
This Regulation shall enter into force	This Regulation shall enter into force	1. This Regulation shall enter	
on the twentieth day following that	on the twentieth day following that	into force on the twentieth day	
of its publication.	of its publication.	following that of its publication.	
It shall apply from the date on which	It shall apply from the date on which	$\underline{2}$. It shall apply from the date on	
the EES is to start operations, as	the EES is to start operations, as	which the EES is to start operations,	
determined by the Commission in	determined by the Commission in	as determined by the Commission in	
accordance with Article 60 of	accordance with Article 60 of	accordance with Article 60 of	
[Regulation N° XXX of the	[Regulation No XXX of the	[Regulation (EU) N° XXX of the	
European Parliament and of the	European Parliament and of the	European Parliament and of the	
Council establishing the Entry/Exit	Council establishing the Entry/Exit	Council establishing the Entry/Exit	

System (EES) to register entry and	System (EES) to register entry and	System (EES) to register entry and	
exit data of third country nationals	exit data of third country nationals	exit data and refusal of entry data of	
crossing the external borders of the	crossing the external borders of the	third country nationals crossing the	
Member States of the European	Member States of the European	external borders of the Member	
Union and determining the	Union and determining the	States of the European Union and	
conditions for access to the EES for	conditions for access to the EES for	determining the conditions for access	
law enforcement purposes].	law enforcement purposes].	to the EES for law enforcement	
law emoreement purposes].	law caroreement purposes].	purposes].	
		2a. By derogation to paragraph 2,	
		during the transitional period	To be discussed further
		pending their connection to the EES	
		in accordance with Article 60(1b) of	
		[Regulation (EU) N° XXX of the	
		European Parliament and of the	
		· · · · · ·	
		Council establishing the 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], Member States not	
		operating the EES, for checks on	
		borders in accordance with	
		Regulation (EU) 2016/399 shall,	
		instead of the procedures set out in	
		Articles 6 to 14 of Regulation (EU)	
		2016/399, apply procedures set out in	
		Annex IX to that Regulation.	
		<u>2b.</u> By derogation to Articles 6(1)	Linked to the calculator
		SBC and [6(1)] of Annex IX to	
		Regulation 2016/399, for the purpose	

DG D 1A EN

		of determination of duration of the	
		authorised stay, the stays in the	
		territory of the Member States not	
		operating the EES shall be counted	
		separately from the stays in the	
		territory of the Member States	
		operating the EES.	
This Regulation shall be binding in	This Regulation shall be binding in	3. This Regulation shall be	
its entirety and directly applicable in	its entirety and directly applicable in	binding in its entirety and directly	
the Member States in accordance	the Member States in accordance	applicable in the Member States in	
with the Treaties.	with the Treaties.	accordance with the Treaties.	
Done at Brussels,	Done at Brussels,	Done at Brussels,	
For the EP For the Council	For the EP For the Council	For the EP For the Council	
The President The President	The President The President	The President The President	

DG D 1A

ANNEX to the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EU) 2016/399 as regards the use of the Entry/Exit System

{SWD(2016) 115 final} {SWD(2016) 116 final}

ANNEX	ANNEX	ANNEX	
Annexes to Regulation (EU) 2016/399 are amended as follows:	Annexes to Regulation (EU) 2016/399 are amended as follows:	Annexes to Regulation (EU) 2016/399 are amended as follows:	
1. Part D is added to Annex III:	1. Part D is added to Annex III:	1. Part D [] and E are added to Annex III:	Provisionally agreed: 1. Part D [] and E are added to Annex III:
"PART D	"PART D	"PART D	
Part D1: ABC lanes for EU/EEA/CH citizens	Part D1: ABC lanes for EU/EEA/CH citizens	Part D1: ABC lanes for EU/EEA/CH citizens	
"LOGO"	"L 0G0"	"LOGO"	
Stars are not required for Switzerland, Liechtenstein, Norway and Iceland	Stars are not required for Switzerland, Liechtenstein, Norway and Iceland	[]	
Part D2: ABC lanes for third country nationals	Part D2: ABC lanes for third country nationals	Part D2: ABC lanes for third country nationals	
"LOGO"	"L0G0"	"LOGO"	
Stars are not required for Switzerland, Liechtenstein, Norway and Iceland	Stars are not required for Switzerland, Liechtenstein, Norway and Iceland	[]	
Part D3: ABC lanes for all passports	Part D3: ABC lanes for all passports	Part D3: ABC lanes for all passports	
"LOGO"	" L0G0"	"LOGO"	
Stars are not required for Switzerland, Liechtenstein, Norway and Iceland"	Stars are not required for Switzerland, Liechtenstein, Norway and Iceland"	[]	
		Part E: Lanes for Registered Travelers	Provisionally agreed: Part E: Lanes for Registered Travelers

		<u>"LOGO"</u>	<u>"LOGO"</u>
2. Annex IV is amended as	2. Annex IV is amended as	2. Annex IV is amended as	
follows:	follows:	follows:	
(a) point 1 is replaced by the	(a) point 1 is replaced by the	(a) point 1 is replaced by the	
following:	following:	following:	
"1. Where provided expressly by its	"1. Where provided expressly by its	"1. The travel document of a third	Issue of stamping to be discussed
national legislation, a Member State	national legislation, a Member State	country national holder of a	further
may stamp on entry and exit the	may stamp on entry and exit the	Factiliated Rail Transit Document	
travel document of those third	travel document of those third	issued in accordance with Regulation	
country nationals holding a residence	country nationals holding a residence	(EC) No 693/2003 and the travel	
permit issued by that same Member	permit issued by that same Member	document of third country nationals	
State in accordance with Article 11.	State in accordance with Article 11.	holders of a valid Facilitated Transit	
In addition, in accordance with	In addition, in accordance with	Document issued in accordance with	
Annex V part A, where third country	Annex V part A, where third country	Regulation (EC) No 693/2003 who	
nationals are refused entry pursuant	nationals are refused entry pursuant	perform their transit by train and who	
to Article 14, the border guard shall	to Article 14, the border guard shall	do not disembark in the territory of a	
affix an entry stamp on the passport,	affix an entry stamp on the passport,	Member State shall be stamped on	
cancelled by a cross in indelible	cancelled by a cross in indelible	entry and exit. Besides, where	
black ink, and write opposite it on	black ink, and write opposite it on	provided expressly by its national	
the right-hand side, also in indelible	the right-hand side, also in indelible	legislation, a Member State may	
ink, the letter(s) corresponding to the	ink, the letter(s) corresponding to the	stamp on entry and exit the travel	
reason(s) for refusing entry, the list	reason(s) for refusing entry, the list	document of those third country	
of which is given on the standard	of which is given on the standard	nationals holding a residence permit	
form for refusing entry shown in Part	form for refusing entry shown in Part	or long-stay visa issued by that same	
B of Annex V."	B of Annex V."	Member State in accordance with	
		Article 11. In addition, in accordance	
		with Annex V part A, where third	
		country nationals are refused entry	
		pursuant to Article 14, the border	
		guard shall affix an entry stamp on	
		the passport, cancelled by a cross in	
		indelible black ink, and write	
		opposite it on the right-hand side,	

			<u> </u>
		also in indelible ink, the letter(s)	
		corresponding to the reason(s) for	
		refusing entry, the list of which is	
		given on the standard form for	
		refusing entry shown in Part B of	
		Annex V."	
(b) point 1a is added:	(b) point 1a is added:	(b) point 1a is added:	
"The specifications of those stamps	"The specifications of those stamps	"The specifications of those stamps	
are laid down in the Schengen	are laid down in the Schengen	are laid down in the Schengen	
Executive Committee Decision	Executive Committee Decision	Executive Committee Decision	
SCH/COM-EX (94) 16 rev and	SCH/COM-EX (94) 16 rev and	SCH/COM-EX (94) 16 rev and	
SCH/Gem-Handb (93) 15	SCH/Gem-Handb (93) 15	SCH/Gem-Handb (93) 15	
(CONFIDENTIAL)."	(CONFIDENTIAL)."	(CONFIDENTIAL)."	
(c) point 3 is replaced by the	(c) point 3 is replaced by the	(c) point 3 is replaced by the	Issue of stamping to be discussed
following:	following: deleted.	following:	further
"3. In case of refusal of entry of a	"3. In case of refusal of entry of a	"3. In case of refusal of entry of a	Issue of stamping to be discussed
third country national subject to the	third country national subject to the	third country national subject to the	further
visa obligation, the stamp shall, as a	visa obligation, the stamp shall, as a	visa obligation, the stamp shall, as a	
general rule, be affixed on the page	general rule, be affixed on the page	general rule, be affixed on the page	
facing the one on which the visa is	facing the one on which the visa is	facing the one on which the visa is	
affixed.	affixed.	affixed.	
If that page cannot be used, the	If that page cannot be used, the	If that page cannot be used, the	
stamp shall be entered on the	stamp shall be entered on the	stamp shall be entered on the	
following page. The machine	following page. The machine	following page. The machine	
readable zone shall not be stamped."	readable zone shall not be stamped."	readable zone shall not be stamped."	
3. Annex V part A is amended	3. Annex V part A is amended	3. Annex V part A is amended	
as follows:	as follows:	as follows:	
(a) point 1(b) is replaced by the	(a) point 1(b) is replaced by the	(a) point 1(b) is replaced by the	
following:	following:	following:	
"(b) for third country nationals	"(b) for third country nationals	"(b) for third country nationals	Issue of stamping to be discussed
whose entry for a short stay [or on	whose entry for a short stay [or on	whose entry for a short stay [or on	further
the basis of a touring visa] has been	the basis of a touring visa] has been	the basis of a touring visa] has been	

refused, the data on refusal of entry	refused, the data on refusal of entry	refused, the data on refusal of entry	
shall be registered into the EES in	shall be registered into the EES in	shall be registered into the EES in	
accordance with Article 6a(2) of this	accordance with Article 6a(2) of this	accordance with Article 6a(2) of this	
Regulation and Article 16 of	Regulation and Article 16 of	Regulation and Article 16 of	
[Regulation establishing the	[Regulation establishing the	[Regulation establishing the	
Entry/Exit System (EES)]. In	Entry/Exit System (EES)]. In	Entry/Exit System (EES)]. In	
addition, the border guard shall affix	addition, the border guard shall affix	addition, the border guard shall affix	
an entry stamp on the passport,	an entry stamp on the passport,	an entry stamp on the passport,	
cancelled by a cross in indelible	cancelled by a cross in indelible	cancelled by a cross in indelible	
black ink, and write opposite it on	black ink, and write opposite it on	black ink, and write opposite it on	
the right-hand side, also in indelible	the right-hand side, also in indelible	the right-hand side, also in indelible	
ink, the letter(s) corresponding to the	ink, the letter(s) corresponding to the	ink, the letter(s) corresponding to the	
reason(s) for refusing entry, the list	reason(s) for refusing entry, the list	reason(s) for refusing entry, the list	
of which is given on the standard	of which is given on the standard	of which is given on the standard	
form for refusing entry shown in Part	form for refusing entry shown in Part	form for refusing entry shown in Part	
B of this Annex;"	B of this Annex;"	B of this Annex;"	
(b) point 1(d) is replaced by the	(b) point 1(d) is replaced by the	(b) point 1(d) is replaced by the	
following:	following:	following:	
"(d) for third country nationals	"(d) for third country nationals	"(d) for third country nationals	/
whose refusals of entry shall not be	whose refusals of entry shall not be	whose refusals of entry shall not be	
registered into the EES, the border	registered into the EES, the border	registered into the EES, the border	
guard shall affix an entry stamp on	guard shall affix an entry stamp on	guard shall affix an entry stamp on	
the passport, cancelled by a cross in	the passport, cancelled by a cross in	the passport, cancelled by a cross in	
indelible black ink, and write	indelible black ink, and write	indelible black ink, and write	
opposite it on the right-hand side,	opposite it on the right-hand side,	opposite it on the right-hand side,	
also in indelible ink, the letter(s)	also in indelible ink, the letter(s)	also in indelible ink, the letter(s)	
corresponding to the reason(s) for	corresponding to the reason(s) for	corresponding to the reason(s) for	
refusing entry, the list of which is	refusing entry, the list of which is	refusing entry, the list of which is	
given on the standard form for	given on the standard form for	given on the standard form for	
refusing entry shown in Part B of this	refusing entry shown in Part B of this	refusing entry shown in Part B of this	
Annex. In addition, for these	Annex. In addition, for these	Annex. In addition, for these	
categories of persons, the border	categories of persons, the border	categories of persons, the border	
guard shall record every refusal of	guard shall record every refusal of	guard shall record every refusal of	

DG D 1A

entry in a register or on a list stating the identity and nationality of the third country national concerned, the references of the document authorising the third country national to cross the border and the reason for, and date of, refusal of entry;" (c) point 1(e) is added:	entry in a register or on a list stating the identity and nationality of the third country national concerned, the references of the document authorising the third country national to cross the border and the reason for, and date of, refusal of entry;" (c)point 1(e) is added:	entry in a register or on a list stating the identity and nationality of the third country national concerned, the references of the document authorising the third country national to cross the border and the reason for, and date of, refusal of entry;" (c) point 1(e) is added:	
"(e) The practical arrangements for	"(e) The practical arrangements for	"(e) The practical arrangements for	
stamping are set out in Annex IV."	stamping are set out in Annex IV."	stamping are set out in Annex IV."	
	3a. In Annex V part B, the following is added under the section entitled "comments"::		
	"The person concerned is hereby		Council to consider this amendment
	informed that her/his personal data		Commission to check details
	and information on this refusal of		
	entry are entered into the Entry/Exit		
	System in accordance with Article		
	16 of [Regulation establishing the		
	Entry/Exit System (EES)].		
	According to Article 46 of		
	[Regulation establishing the		
	Entry/Exit System (EES)] the		
	person concerned has the right to		
	obtain the data relating to her/him		
	recorded in the EES and may		
	request that data relating to her/him		
	which are inaccurate be rectified		
	and that data recorded unlawfully		
	be erased."		D
		4. In Annex V, part B, in the	Provisionally agreed
		Standard form for refusal of entry at	4. In Annex V, part B, in the
		the border, is amended as follows:	Standard form for refusal of entry at

	the border, is amended as follows:
(J) has refused to provide the	
biometric data, if required	
☐ for the creation of the individual	
file in the Entry/Exit system	
☐ to carry out the border check.	
5. Annex VII is amended as	
<u>follows:</u>	
point 1 is replaced by the following:	
By way of derogation from Article 6	Provisionally agreed:
and Articles 8 to 14, Heads of State,	Dry way of damagation from Antiala 6 and
heads of government and members of	By way of derogation from Article 6 and Articles 8 to 14, Heads of State, Heads of
national government with	Government and the members of
accompanying spouses, sovereigns	national government with accompanying
and other senior members of a royal	spouses, sovereigns and other members
family and the members of their	of a royal family, and members of their
delegation, whose arrival and	delegation invited by Member States'
departure have been officially	governments or by international
announced through diplomatic	organisations for an official purpose
channels to the border guards, may	and whose arrival and departure have been officially announced through
not be subject to border checks.	diplomatic channels to the border
	guards, may not be subject to border
	checks.
6. The following Annex IX is	
added:	
"Annex IX	To be discussed further
Procedures for border checks	
applicable to the Member States not	
operating the EES pending their	
connection to the EES	
By derogation to Article 2(2) of	
Regulation XXXX/XXXX amending	

	Regulation (EU) 2016/399 as regards	
	the use of the Entry/Exit System,	
	during the transitional period	
	pending their connection to the EES	
	in accordance with Article 60(1b) of	
	[Regulation (EU) N° XXX of the	
	European Parliament and of the	
	Council establishing an Entry/Exit	
	System (EES) to register entry and	
	exit data and the 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], for checks on borders	
	Member States not operating the EES	
	shall not apply procedures set out in	
	Articles 6 to 14 of this Regulation,	
	but shall apply instead the procedures	
	set out in this Annex.	
	Article 6	
	[reproduce the whole text in its	
	version from before the entry into	
	force of this Regulation]	
	Article 7	
	<u>[reproduce the whole text in its</u>	
	version from before the entry into	
	force of this Regulation]	
	Article 8	
	[reproduce the whole text in its	
	version from before the entry into	
	force of this Regulation]	

DG D 1A EN

Article 8a
[reproduce the whole text of new]
Article 8a as introduced in this
Regulation]
Article 8b
[reproduce the whole text of new]
Article 8b as introduced in this
Regulation]
Article 9
reproduce the whole text in its
version from before the entry into
force of this Regulation]
Article 10
[reproduce the whole text in its
version from before the entry into
force of this Regulation, plus new
paragraph 3a as introduced in this
Regulation]
Article 11
[reproduce the whole text in its
version from before the entry into
force of this Regulation]
Article 12
[reproduce the whole text in its
version from before the entry into
force of this Regulation]
Article 13
[reproduce the whole text in its
version from before the entry into
force of this Regulation]
Article 14
<u>[reproduce the whole text in its]</u>

version from before the entry into
force of this Regulation]"
Annex III
reproduce the whole text in its
version from before the entry into
force of this Regulation, plus new
Part D1 as introduced in this
Regulation]"
Annex IV
[reproduce the whole text in its
version from before the entry into
force of this Regulation]"
Annex V
reproduce the whole text in its
version from before the entry into
force of this Regulation]"
Annex VII
reproduce the whole text in its
version from before the entry into
force of this Regulation]"
Annex XII
reproduce the whole text in its
version from before the entry into
force of this Regulation]"

DG D 1A EN