

Council of the European Union

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FRONT 235 VISA 190 CODEC 868 COMIX 371

NOTE

From: Presidency	
То:	JHA Counsellors/Mixed Committee
	(EU-Iceland/Liechtenstein/Norway/Switzerland)
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the European Union and determining the conditions for access to the EES for law enforcement purposes and amending Regulation (EC) No 767/2008 and Regulation (EU) No 1077/2011

Delegations will find in the Annex the four-column table relating to the draft Regulation in the subject.

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ANNEX

2

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

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

• Second column with EP position: new text is marked in bold italics; deleted parts of the text are marked in strikethrough, text identical with the Commission proposal is marked - with a diagonal line in the box.

- Third column with Coreper mandate: new text is marked in underlined; deleted parts of the text are marked in [...]
- Fourth column: the diagonal line in the box indicates that the text is identical for all three institutions.

NOTICE TO DELEGATIONS: text in the 2nd column marked in vellow – reactions/ position of delegations to the EP proposals.

COMMISSION PROPOSAL	EP POSITION	COUNCIL POSITION	COMPROMISE
THE EUROPEAN PARLIAMENT	THE EUROPEAN PARLIAMENT	THE EUROPEAN PARLIAMENT	
AND THE COUNCIL OF THE	AND THE COUNCIL OF THE	AND THE COUNCIL OF THE	
EUROPEAN UNION,	EUROPEAN UNION	EUROPEAN UNION	
Having regard to the Treaty of the	Having regard to the Treaty of the	Having regard to the Treaty of the	EP to confirm the deletion of Art. 88,
Functioning of the European Union,	Functioning of the European Union,	Functioning of the European Union,	subject to an opinion of the JURI
and in particular, Article 77(2)(b)	and in particular, Article 77(2)(b)	and in particular, Article 77(2)(b)	Committee
and (d), Article 87(2)(a) and Article	and (d), Article 87(2)(a) and Article	and (d) <u>and</u> Article 87(2)(a) []	
88(2)(a) thereof,	88(2)(a) 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 ¹ ,	Committee ² ,	Committee ¹ ,	
Having regard to the opinion of the	Having regard to the opinion of the	Having regard to the opinion of the	
Committee of the Regions^2 ,	Committee of the Regions ^{2} ,	Committee of the Regions^2 ,	
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 OJ C , , p. . 2 OJ C , , p. .

$(1) \qquad T = O \qquad : : : : : : : : : :$			
(1) The Communication of the (12 Fr)	(1) The Communication of the 12 F l 2000	(1) The Communication of the C_{12}	
Commission of 13 February 2008	Commission of 13 February 2008	Commission of 13 February 2008	
entitled 'preparing the next steps in	entitled 'preparing the next steps in	entitled 'preparing the next steps in	
border management in the European	border management in the European	border management in the European	
Union ³ outlined the need, as part of	Union ³ outlined the need, as part of	Union ³ outlined the need, as part of	
the European integrated border	the European integrated border	the European integrated border	
management strategy, to establish an	management strategy, to establish an	management strategy, to establish an	
Entry/Exit System (EES) which	Entry/Exit System (EES) which	Entry/Exit System (EES) which	
registers electronically the time and	registers electronically the time and	registers electronically the time and	
place of entry and exit of third	place of entry and exit of third	place of entry and exit of third	
country nationals admitted for a short	-/	country nationals admitted for a short	
stay to the Schengen area and which	stay to the Schengen area and which	stay to the territory of the Member	
calculates the duration of their	calculates the duration of their	States [] and which calculates the	
authorised stay.	authorised stay.	duration of their authorised stay.	
(2) The European Council of 19	(2) The European Council of 19	(2) The European Council of 19	
and 20 June 2008 underlined the	and 20 June 2008 underlined the	and 20 June 2008 underlined the	
importance of continuing to work on	importance of continuing to work on	importance of continuing to work on	
the development of the EU's	the development of the EU's	the development of the EU's	
integrated border management	integrated border management	integrated border management	
strategy, including better use of	strategy, including better use of	strategy, including better use of	
modern technologies to improve the	modern technologies to improve the	modern technologies to improve the	
management of external borders.	management of external borders.	management of external borders.	
(3) The Communication of the	(3) The Communication of the	(3) The Communication of the	
Commission of 10 June 2009,	Commission of 10 June 2009,	Commission of 10 June 2009,	
entitled 'An area of freedom, security	entitled 'An area of freedom, security	entitled 'An area of freedom, security	
and justice serving the citizens',	and justice serving the citizens',	and justice serving the citizens',	
advocates establishing an electronic	advocates establishing an electronic	advocates establishing an electronic	
system for recording entry to and exit		system for recording entry to and exit	
from Member States' territory via the	from Member States' territory via the	from Member States' territory via the	
crossing of external borders to ensure	crossing of external borders to ensure	crossing of external borders to ensure	
more effective management of access	more effective management of access	more effective management of access	

³ COM (2008) 69 final.



to this territory.	to this territory.	to this territory.	
(4) The European Council of 23	(4) The European Council of 23	(4) The European Council of 23	
and 24 of June 2011 called for work	and 24 of June 2011 called for work	and 24 of June 2011 called for work	
on "smart borders" to be pushed	on "smart borders" to be pushed	on "smart borders" to be pushed	
forward rapidly. The Commission	forward rapidly. The Commission	forward rapidly. The Commission	
published a Communication "Smart	published a Communication "Smart	published a Communication "Smart	
borders – options and the way ahead"	borders – options and the way ahead"	borders – options and the way ahead"	
on 25 October 2011.	on 25 October 2011.	on 25 October 2011.	
(5) The European Council in its	(5) The European Council in its /	(5) The European Council in its	
Strategic guidelines adopted in June	Strategic guidelines adopted in June	Strategic guidelines adopted in June	
2014 stressed that "the Schengen	2014 stressed that "the Schengen/	2014 stressed that the Schengen area,	
area, allowing people to travel	area, allowing people to travel/	allowing people to travel without	
without internal border controls, and	without internal border controls, and	internal border controls, and the	
the increasing numbers of people	the increasing numbers of people	increasing numbers of people	
travelling to the EU require efficient	travelling to the EU require efficient	travelling to the EU require efficient	
management of the EU's common	management of the EU's common	management of the EU's common	
external borders to ensure strong	external borders to ensure strong	external borders to ensure strong	
protection. The Union must mobilise	protection. The Union must mobilise	protection. The Union must mobilise	
all the tools at its disposal to support	all the tools at its/disposal to support	all the tools at its disposal to support	
the Member States in their task. To	the Member States in their task. To	the Member States in their task. To	
this end: integrated Border	this end: integrated Border	this end, integrated Border	
Management of external borders	Management of external borders	Management of external borders	
should be modernised in a cost	should be/modernised in a cost	should be modernised in a cost	
efficient way to ensure smart border	efficient way to ensure smart border	efficient way to ensure smart border	
management inter alia with an entry-	management inter alia with an entry-	management inter alia with an entry-	
exit system and supported by the new	exit/system and supported by the new	exit system and supported by the new	
agency for large-scale IT systems	agency for large-scale IT systems	agency for large-scale IT systems	
(eu-LISA)".	/(eu-LISA)".	(eu-LISA).	/
(6) The Communication of the	(6) The Communication of the	(6) The Communication of the	
Commission of 13 May 2015 entitled	Commission of 13 May 2015 entitled	Commission of 13 May 2015 entitled	
"A European agenda on migration"	"A European agenda on migration"	"A European agenda on migration"	
noted that "a new phase would come	noted that "a new phase would come	noted that "a new phase would come	
with the "Smart Borders" initiative	with the "Smart Borders" initiative	with the "Smart Borders" initiative	



to increase the efficiency of border crossings, facilitating crossings for the large majority of 'bona fide' third country travellers, whilst at the same time strengthening the fight against irregular migration by creating a record of all cross-border movements by third country nationals, fully respecting proportionality".	to increase the efficiency of border crossings, facilitating crossings for the large majority of 'bona fide' third country travellers, whilst at the same time strengthening the fight against irregular migration by creating a record of all cross-border movements by third country nationals, fully respecting proportionality".	to increase the efficiency of border crossings, facilitating crossings for the large majority of 'bona fide' third country travellers, whilst at the same time strengthening the fight against irregular migration by creating a record of all cross-border movements by third country nationals, fully respecting proportionality".	
	(6a) With a view to further		
	<i>improving the management of the external borders and, in particular,</i>		
	in order to verify the respect of the		
	provisions on an authorised period		
	of stay within the Schengen area, a		
	system which registers electronically		
	the time and place of entry and exit		
	of third-country nationals admitted		
	for a short stay to the Schengen		
	area and which calculates the		
	duration of their authorised stay		
	should be established.		
(7) It is necessary to specify the	(7) It is necessary to specify the	(7) It is necessary to specify the	
objectives of the Entry/Exit System	objectives of the Entry/Exit System	objectives of the Entry/Exit System	
(EES) and its technical architecture,	(EES), and its technical architecture,	(EES) and its technical architecture,	
to lay down rules concerning its	to lay down rules concerning its	to lay down rules concerning its	
operation and use and to define	operation and use and to define	operation and use and to define	
responsibilities for the system, the	responsibilities for the system, the	responsibilities for the system, the	
categories of data to be entered into	categories of data to be entered into	categories of data to be entered into	
the system, the purposes for which	the system, the purposes for which	the system, the purposes for which	
the data are to be entered, the criteria	the data are to be entered, the criteria	the data are to be entered, the criteria	
for their entry, the authorities	for their entry, the authorities	for their entry, the authorities	



authorised to access the data and	authorised to access the data and ,	authorised to access the data and	
further rules on data processing and	further rules on data processing and	further rules on data processing and	
the protection of personal data.	the protection of personal data as	the protection of personal data.	
	well as the technical architecture of		
	the system, rules concerning its		
	operation and use and		
	interoperability with other		
	information systems. It is also		
	necessary to define responsibilities		
	for the system.		
(8) The EES should apply to third	(8) The EES should apply to third $/$	(8) The EES should apply to third	
country nationals admitted for a short	country nationals admitted for a short	country nationals admitted for a short	
stay to the Schengen area. It should	stay to the Schengen area. It should	stay to the territory of the Member	
also apply to third country nationals	also apply to third country nationals	States []. It should also apply to	
whose entry for a short stay has been	whose entry for a short stay has been	third country nationals whose entry	
refused.	refused.	for a short stay has been refused.	
		The EES should be deployed at the	
		external borders of the Member	
		States which apply the Schengen	
		<i>acquis</i> in full as well as those that do	
		not yet apply the Schengen <i>acquis</i> in	
		full but for which the verification in	
		accordance with the applicable	
		Schengen evaluation procedure has	
		already been successfully completed	
		and to which passive access to the	
		Visa Information System (VIS) for	
		the purpose of operating the EES has	
		been granted. Moreover, the EES	
		should be deployed at all internal	
		borders of Member States operating	
		the EES where the controls have not	
		yet been lifted. However, specific	
	V	yet been meet. nowever, specific	



provisions with regard of the EES at
such borders should apply, justified
by reasons of economy of the process
of the checks on such borders, while
not affecting the level of security and
the correct functioning of the EES
and without prejudice to the other
border control obligations under
Regulation (EU) 2016/399.
8a. The length of the authorised
stay of third country nationals in the
territories of the Member States for
the purpose of this Regulation results
from the Schengen <i>acquis</i> applicable.
8b. The calculator included in the
EES should take into account stays in
the territory of the Member States
which operate the EES for the
calculation of the overall limit of 90
days in a 180-day period. Any
extensions of authorised stay should
be taken into account for the purpose
of calculation of the overall limit of
90 days in any 180-day period upon
the subsequent entry of the third
country national to the territory of
the Member States.
By derogation to the general rule set
out in Article 6(1) of the Schengen
Borders Code, pending their
connection to the EES, stays in the
territories of the Member States
which do not operate the EES should
when do not operate the LLb should



S
authorised by a visa.
when calculating the duration of stay
acquis in full but operate the EES,
which do not yet apply the Schengen
account stays in Member States
The calculator should not take into
operates the EES.
apply the Schengen <i>acquis</i> in full but
Member State which does not yet
a national short stay visa issued by a
The calculator should not calculate the duration of stay as authorised by
visa. The coloulator should not coloulate
verifying the period of validity of the
period and for the purposes of
limit of 90 days in any 180-day
verifying compliance with the overall
calculator for the purposes of
only be taken into account by the
in full but operate the EES should
do not yet apply the Schengen <i>acquis</i>
8c. Stays in Member States which
documents of third country nationals.
be counted separately, on the basis of stamps affixed in the travel



	in accordance with this Regulation and the relevant provisions of Regulation (EU) No 1077/2011 should be amended accordingly. \overline{Ia} Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large- scale IT systems in the area of freedom, security and justice (OJ L 286, 1.11.2011, p 1).		
(9) The EES should have the	(9) The <i>objective of the</i> EES	(9) The EES should have the	
objective of improving the management of external borders,	should have the objective of improving <i>be to improve</i> the	objective of improving the management of external borders,	
	management of external borders,		
preventing irregular immigration and	e ,	preventing irregular immigration and facilitating the management of	
facilitating the management of migration flows. The EES should, in	preventing to prevent irregular immigration and facilitating to	migration flows. The EES should, in	



particular and when relevant,	<i>facilitate</i> the management of	particular and when relevant,	
contribute to the identification of any	migration flows. The EES should, in	contribute to the identification of any	
person who does not or no longer	particular and when relevant,	person who does not or no longer	
fulfils the conditions of duration of	contribute to the identification of any	fulfils the conditions of duration of	
stay within the territory of the	5	authorised stay within the territory of	
Member States.	person who does not or no longer fulfils the conditions of duration of	the Member States.	
Wember States.		the Member States.	
	the authorised stay within the		
	territory of the Member States.		
	Additionally, the EES should		
	contribute to the prevention,		
	detection and investigation of		
	terrorist offences and of other		
	serious criminal offices.		
	(9a) The EES should consist of a		
	Central System, which operates a		
	computerised central database of		
	biometric and alphanumeric data, a		
	National Uniform Interface in each		
	Member State, a Secure		
	Communication Channel between		
	the EES Central System and the		
	Central Visa Information System		
	(VIS Central System) of the Visa		
	Information System (VIS),		
	established by Council Decision		
	$2004/512/EC^{1a}$, and the secure and		
	encrypted Communication		
	Infrastructure between the Central		
	System and the National Uniform		
	Interfaces. Each Member State		
	should connect its national border		
	infrastructures to the National		
	Uniform Interface in a secure		
<u>L</u>		l	



	manner. In order to enable third	
	country nationals and carriers to	
	verify at any moment the remaining	
	authorised period of stay a web	
	service should be developed.	
	Relevant stakeholders should be	
	consulted in the development phase	
	of the web service.	
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	^{<i>Ia</i>} Council Decision	
	2004/512/EC of 8 June 2004	
	establishing the Visa Information	
	System (VIS) (OJ L 213, 15.6.2004,	
	<i>p.5</i>).	
<u> </u>	(9b) Interoperability should be	
	<i>(sb) Interoperability should be</i> <i>established between the EES and</i>	
	the VIS by way of a direct communication channel between	
	the VIS Central System and the	
	EES Central System to enable the	
	border authorities using the EES to	
	consult the VIS in order to retrieve	
	visa-related data to create or update	
	the individual file, to enable the	
	border authorities to verify the	
	of the visa holder by means of	
	fingerprints directly against the VIS	
	at the external borders and to	
	enable the border authorities to	
	verify the identity of visa exempt	
	•	
	validity of the visa and the identity of the visa holder by means of fingerprints directly against the VIS at the external borders and to enable the border authorities to	



Interoperability should also enable	
the border authorities using the VIS	
to directly consult the EES from the	
VIS for the purposes of examining	
visa applications and decisions	
relating to those applications and	
enabling visa authorities to update	
the visa-related data in the EES in	
the event that a visa is annulled,	
revoked or extended. Regulation	
(EC) No 767/2008 of the European	
Parliament and of the Council ^{1a}	
should be amended accordingly.	
\overline{Ia} Regulation (EC) No 767/2008	
of the European Parliament and of	
the Council of 9 July 2008	
concerning the Visa Information	
System (VIS) and the exchange of	
data between Member States on	
short-stay visas (VIS Regulation)	
(OJ L 218, 13.8.2008, p.60).	
(9c) In order to structurally	
improve the Union's data	
management architecture for border	
control and security, the	
Commission's Communication of 6	
April 2016 entitled 'Stronger and	
Smarter Information Systems for	
Borders and Security' presented a	
process towards the interoperability	
of information systems. The High-	
level Expert Group on Information	



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Systems and Interoperability, set up	
as announced in this	
Communication, is expected to	
present its results in the spring of	
2017. Those results might be	
relevant for the further development	
of the EES and, where this is the	
case, the Commission is invited to	
propose any appropriate measures	
concerning the EES.	
(9d) This Regulation should define	
the authorities of the Member States	
which may be authorised to have	
access to the EES to enter, amend,	
delete or consult data for the	
specific purposes of the EES and to	
the extent necessary for the	
performance of their tasks.	
(9e) Any processing of EES data	
should be proportionate to the	
objectives pursued and necessary	
for the performance of the tasks of	
the competent authorities. When	
using the EES, the competent	
authorities should ensure that the	
human dignity and integrity of the	
person whose data are requested,	
are respected and should not	
discriminate against persons on	
grounds of sex, race, colour, ethnic	
or social origin, genetic features,	
language, religion or belief, political	
or any other opinion, membership	
<i>y i y r</i>	



	of a national minority, property, birth, disability, age or sexual orientation.		
(10) To meet those objectives, the EES should process alphanumeric data and biometric data (fingerprints and facial image). The use of biometrics, despite its impact on the privacy of travellers, is justified for two reasons. Firstly, biometrics are a reliable method to identify third country nationals within the territory of the Member States not in possession of travel documents or any other means of identification, a common modus operandi of irregular migrants. Secondly, biometrics provide for the more reliable matching of entry and exit data of legal travellers. Where facial images are used in combination with fingerprint data, it allows for the reduction of fingerprints registered while enabling the same result in terms of accuracy of the identification.	orientation. (10) The To meet those objectives, the EES should collect and process alphanumeric data and biometric data (fingerprints and facial image) primarily for the purposes of improving the management of external borders, preventing irregular immigration and facilitating the management of migration flows. Personal data collected in the EES may be further processed to contribute to the prevention, detection and investigation of terrorist offences and of other serious criminal offices only under the conditions laid down in this Regulation. The use of biometrics, despite its impact on the privacy of travellers, is justified for two reasons. Firstly, biometrics are a reliable method to identify third country nationals within the territory of the Member States not in possession of travel documents or any other means of identification, a common modus operandi of irregular	(10) To meet those objectives, the EES should process alphanumeric data and biometric data (fingerprints and facial image). The use of biometrics, despite its impact on the privacy of travellers, is justified for two reasons. Firstly, biometrics are a reliable method to identify third country nationals within the territory of the Member States not in possession of travel documents or any other means of identification, a common modus operandi of irregular migrants. Secondly, biometrics provide for the more reliable matching of entry and exit data of legal travellers. Where facial images are used in combination with fingerprint data, it allows for the reduction of fingerprints registered while enabling the same result in terms of accuracy of the identification.	
	migrants. Secondly, biometrics provide for the more reliable matching of entry and exit data of legal travellers. Where facial images		



	are used in combination with		
	fingerprint data, it allows for the		
	reduction of fingerprints registered		
	while enabling the same result in		
	terms of accuracy of the		
	identification.		
(11) Four fingerprints of visa	(11) Four fingerprints of visa	(11) Four fingerprints of visa	
exempt third country nationals	exempt third country nationals	exempt third country nationals	
should be enrolled in the EES, if	should be enrolled in the EES, if	should be enrolled in the EES, if	
,	, ,	· · · · · · · · · · · · · · · · · · ·	
physically possible, to allow for accurate verification and	physically possible, to allow for accurate verification and	physically possible, to allow for accurate verification and	
identification (ensuring that the third	identification (ensuring that the third	identification (ensuring that the third	
country national is not already	country national is not already	country national is not already	
enrolled under another identity or	enrolled under another identity or	enrolled under another identity or	
with another travel document) and to	with another travel document) and to	with another travel document) and to	
guarantee that sufficient data is	guarantee that sufficient data is	guarantee that sufficient data is	
available in every circumstance. The	available to achieve the objectives of	available in every circumstance. The	
check of the fingerprints of visa	the EES in every circumstance. The	check of the fingerprints of visa	
holders will be done against the Visa	check of the fingerprints of visa	holders will be done against the Visa	
Information System. (VIS)	holders will be done against the VIS	Information System. (VIS)	
established by Council Decision	Visa Information System. (VIS)	established by Council Decision	
$2004/512/\text{EC}^4$. The facial image of	established by Council Decision	$2004/512/\text{EC}^4$. The facial image of	
both visa exempt and visa holding	2004/512/EC⁴ . The facial image of	both visa exempt and visa holding	
third country nationals should be	both visa exempt and visa holding	third country nationals should be	
registered in the EES and it should be	third country nationals should be	registered in the EES. Fingerprints	
used as the main biometric identifier	registered in the EES and it should be	and facial image [] should be used	
for verifying the identity of third	used as the main biometric identifier	as the [] biometric identifier for	
country nationals who have been	for verifying the identity of third	verifying the identity of third country	
previously registered in the EES and	country nationals who have been	nationals who have been previously	
for as long as their individual file has	previously registered in the EES and	registered in the EES and for as long	
not been deleted. Alternatively, that	for as long as their individual file has	as their individual file has not been	

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

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verification should be performed using fingerprints.	not been deleted. Alternatively, that verification should be performed using fingerprints.	deleted. [] <u>In order to take into</u> <u>account the specificities of each</u> border crossing point and the	
	Council Decision 2004/512/EC	different kind of borders, the national	
	of 8 June 2004 establishing the Visa	authorities should define for each	
	Information System (VIS) (OJ L 213,	border crossing whether the	
	15.6.2004, p.5).	fingerprints or the facial image	
		should be used as the main biometric	
		identifier to perform the required	
		verifications.	
(12) The EES should consist of a	deleted	(12) The EES should consist of a	
Central System, which will operate a		Central System, which will operate a	
computerised central database of		computerised central database of	
biometric and alphanumeric data, a		biometric and alphanumeric data, a	
National Uniform Interface in each		National Uniform Interface in each	
Member State, a Secure		Member State, a Secure	
Communication Channel between the		Communication Channel between the	
EES Central System and the VIS		EES Central System and the VIS	
Central System and the		Central System and the	
Communication Infrastructure		Communication Infrastructure	
between the Central System and the		between the Central System and the	
National Uniform Interfaces. Each		National Uniform Interfaces. Each	
Member State should connect its		Member State should connect its	
national border infrastructures to the		national [] infrastructures	
National Uniform Interface.		necessary for border check to the	
		National Uniform Interface.	
(13) Interoperability should be	deleted	(13) Interoperability should be	
established between the EES and the		established between the EES and the	
VIS by way of a direct		VIS by way of a <u>n</u> <u>automatic</u> []	
communication channel between the		communication channel between the	
Central Systems to enable the border		Central Systems to enable the border	
authorities using the EES to consult		check authorities using the EES to	
the VIS in order to retrieve visa-		consult the VIS in order to retrieve	



unlated data to support on you date the	riss valeted date to supply our undets	
related data to create or update the	visa-related data to create or update	
individual file; to enable the border	the entry/exit record or refusal of	
authorities to verify the validity of	entry record []; to enable the	
the visa and the identity of a visa	border <u>check</u> authorities to verify the	
holder by means of fingerprints	validity of the visa and the identity of	
directly against the VIS at the	a visa holder by means of	
external borders and to enable the	fingerprints automatically []	
border authorities to verify the	against the VIS at the [] borders <u>at</u>	
identity of visa exempt third country	which the EES is operated and to	
nationals against the VIS with	enable the border <u>check</u> authorities to	
fingerprints. Interoperability should	verify the identity of visa exempt	
also enable the border authorities	third country nationals against the	
using the VIS to directly consult the	VIS with fingerprints.	
EES from the VIS for the purposes of	Interoperability should also enable	
examining visa applications and	the border check and the visa	
decisions relating to those	authorities using the VIS to directly	
applications and enable visa	consult the EES from the VIS for the	
authorities to update the visa-related	purposes of examining visa	
data in the EES in the event that a	applications and decisions relating to	
visa is annulled, revoked or	those applications and [] to update	
extended. Regulation (EC) No	the visa-related data in the EES in the	
767/2008/EC of the European	event that a visa is annulled, revoked	
Parliament and of the Council ⁵	or extended. Regulation (EC) No	
should be amended accordingly.	767/2008/EC of the European	
6,5	Parliament and of the Council ⁵	
	should be amended accordingly. The	
	launch of the automated processes	
	between the EES and the VIS should	
	in each case be subject to a	
	confirmation by the authority	
	<u>communication by the authority</u>	

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

9465/17		RG/cr	18
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		concerned.	
(14) This Regulation should define the authorities of the Member States which may be authorised to have access to the EES to enter, amend, delete or consult data for the specific purposes of the EES and to the extent necessary for the performance of their tasks.	deleted	(14) This Regulation should define the authorities of the Member States which may be authorised to have access to the EES to enter, amend, delete or consult data for the specific purposes of the EES and to the extent necessary for the performance of their tasks.	Council proposes a new Recital 14a to be included after recital 14 to clarify that the definition on immigration authorities does not include asylum authorities. Delegations are encouraged to accept the following recital: 14a. Immigration authorities should have access to the EES for the purposes of checking whether the conditions for entry and/or stay in the territory of the Member States are met, examining the conditions and taking decisions relating to the residence by third country nationals in the territory of the Member States, or providing advice in accordance with Regulation (EU) 377/2004, and for the purpose of returning third country nationals to a third country of origin or transit. This does not include authorities responsible for determining applications for international protection, notwithstanding the fact that such determination would subsequently lead to the issuing or otherwise of a residence permit.



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



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

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

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



	offences or other serious criminal	offences should be such as to allow	
	offences a search of the database is	the law enforcement authorities of	
	proportionate if there is an	the Member States to tackle the cases	
	overriding public security concern.	of suspects using multiple identities.	
	Any search must be duly justified	For this purpose obtaining a hit	
	and proportionate in the light of the	during a consultation of a relevant	
	interest invoked.	database prior to acceding the EES	
		should not prevent such access.	
(17) Moreover, Europol plays a key	(17) Moreover, Europol plays a key	(17) Moreover, Europol plays a key	
role with respect to cooperation	role with respect to cooperation	role with respect to cooperation	
between Member States' authorities	between Member States' authorities	between Member States' authorities	
in the field of cross-border crime	in the field of cross-border crime	in the field of cross-border crime	
investigation in supporting Union-	investigation in supporting Union-	investigation in supporting Union-	
wide crime prevention, analyses and	wide crime prevention, analyses and	wide crime prevention, analyses and	
investigation. Consequently, Europol	investigation. Consequently, Europol	investigation. Consequently, Europol	
should also have access to the EES	should also have access to the EES	should also have access to the EES	
within the framework of its tasks and	within the framework of its tasks and	within the framework of its tasks and	
in accordance with Council Decision	in accordance with Council Decision	in accordance with Council Decision	
2009/371/JHA. ⁸	2009/371/JHA Regulation (EU)	2009/371/JHA. ⁸	
	2016/794 of the European		
	Parliament and of the Council. ⁸ The		
	European Data Protection		
	Supervisor should monitor the		
	processing of data by Europol and		
	ensure full compliance with		
	applicable data protection rules.		
	8 Council Decision		
	2009/371/JHA of 6 April 2009		
	establishing the European Police		
	Office (Europol) (OJ L 121,		
	Office (Europoi) (Of E 121,	1	

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

8



15.5.2009, p. 37). Regulation (EU) 2016/794 of the European Parliament and of the Council 11 May 2016 on the European Parliament and of the Council 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53). (18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences constitutes an interference with the fundamental rights to respect for the private life of individuals and to
Parliament and of the Council 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (0J L 135, 24.5.2016, p. 53).(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences constitutes an interference with the fundamental rights to respect for the(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences constitutes an interference with the fundamental rights to respect for the(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences
May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences constitutes an interference with the fundamental rights to respect for the(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences constitutes an interference with the fundamental rights to respect for the(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences constitutes an interference with the fundamental rights to respect for the(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences constitutes an interference with the fundamental rights to respect for the(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences constitutes an interference with the fundamental rights to respect for the(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences constitutes an interference with the fundamental rights to respect for the
Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences constitutes an interference with the fundamental rights to respect for the(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences constitutes an interference with the fundamental rights to respect for the(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences constitutes an interference with the fundamental rights to respect for the(18) Access to the EES for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences constitutes an interference with the fundamental rights to respect for the
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fundamental rights to respect for the fundamental rights to respect for the fundamental rights to respect for the
private life of individuals and to private life of individuals and to private life of individuals and to
protection of personal data of persons protection of personal data of persons protection of personal data of persons
whose personal data are processed in whose personal data are processed in whose personal data are processed in /
the EES. Any such interference must the EES. Any such interference must the EES. Any such interference must
be in accordance with the law, which be in accordance with the law, which be in accordance with the law, which
must be formulated with sufficient must be formulated with sufficient must be formulated with sufficient
precision to allow individuals to precision to allow individuals to precision to allow individuals to
adjust their conduct and it must adjust their conduct and it must
protect individuals against protect individuals against /
arbitrariness and indicate with arbitrariness and indicate with
sufficient clarity the scope of sufficient clarity the scope of
discretion conferred on the discretion conferred on the
competent authorities and the manner competent authorities and the manner competent authorities and the manner
of its exercise. Any interference must of its exercise. Any interference must
be necessary in a democratic society be necessary in a democratic society
to protect a legitimate and to protect a legitimate and

proportionate interest and	proportionate interest and	proportionate interest and	
proportionate to the legitimate	proportionate to the legitimate	proportionate to the legitimate	
objective to achieve.	objective to achieve.	objective to achieve.	
(19) Comparisons of data on the	(19) Comparisons of data on the	(19) Comparisons of data on the	
basis of a latent fingerprint, which is	basis of a latent fingerprint, which is	basis of a latent fingerprint, which is	
the dactyloscopic trace which may be	the dactyloscopic trace which may be	the dactyloscopic trace which may be	
found at a crime scene, is	found at a crime scene, is	found at a crime scene, is	
fundamental in the field of police	fundamental in the field of police	fundamental in the field of police	
cooperation. The possibility to	cooperation. The possibility to	cooperation. The possibility to	
compare a latent fingerprint with the	compare a latent fingerprint with the	compare a latent fingerprint with the	
fingerprint data which is stored in the	fingerprint data which is stored in the	fingerprint data which is stored in the	
EES in cases where there are	EES in cases where there are	EES in cases where there are	
reasonable grounds for believing that	reasonable grounds for believing that	reasonable grounds for believing that	
the perpetrator or victim may be	the perpetrator or victim may be	the perpetrator or victim may be	
registered in the EES should provide	registered in the EES is necessary	registered in the EES should provide	
the law enforcement authorities of	<i>for</i> should provide the law	the <u>designated []</u> authorities of the	
the Member States with a very	enforcement authorities of the	Member States with a very valuable	
valuable tool in preventing, detecting	Member States to prevent, detect or	tool in preventing, detecting or	
or investigating terrorist offences or	<i>investigate</i> with a very valuable tool	investigating terrorist offences or	
other serious criminal offences, when	in preventing, detecting or	other serious criminal offences, when	
for example the only evidence at a	investigating terrorist offences or	for example the only evidence at a	
crime scene are latent fingerprints.	other serious criminal offences, when	crime scene are latent fingerprints.	
	for example the only evidence at a		
	crime scene are latent fingerprints.		
(20) It is necessary to designate the	(20) It is necessary to designate the	(20) It is necessary to designate the	
competent authorities of the Member	competent authorities of the Member	competent authorities of the Member	
States as well as the central access	States as well as the central access	States as well as the central access	
point through which the requests for	point through which the requests for	point through which the requests for	
access to EES data are made and to	access to EES data are made and to	access to EES data are made and to	
keep a list of the operating units	keep a list of the operating units	keep a list of the operating units	
within the designated authorities that	within the designated authorities that	within the designated authorities that	
are authorised to request such access	are authorised to request such access	are authorised to request such access	
for the specific purposes for the	for the specific purposes for the	for the specific purposes for the	



prevention, detection or investigation	prevention, detection or investigation	prevention, detection or investigation	
of terrorist offences or of other	of terrorist offences or of other	of terrorist offences or of other	
serious criminal offences.	serious criminal offences.	serious criminal offences.	
(21) Requests for access to data	(21) Requests for access to data $/$	(21) Requests for access to data	
stored in the Central System should	stored in the Central System should /	stored in the Central System should	
be made by the operating units	be made by the operating units /	be made by the operating units	
within the designated authorities to	within the designated authorities to	within the designated authorities to	
the central access point and should	the central access point and should	the central access point and should	
be justified. The operating units	be justified. The operating units	be justified. The operating units	
within the designated authorities that	within the designated authorities that	within the designated authorities that	
are authorised to request access to	are authorised to request access to	are authorised to request access to	
EES data should not act as a	EES data should not act as a	EES data should not act as a	
verifying authority. The central	verifying authority. The central	verifying authority. The central	
access points should act	access points should act/	access point should be a body or	
independently of the designated	independently of the designated	entity entrusted by national law to	
authorities and should be responsible	authorities and should/be responsible	exercise public authority and be	
for ensuring, in an independent	for ensuring, in an independent	capable, through the quality and the	
manner, strict compliance with the	manner, strict compliance with the	quantity of its staffing, to effectively	
conditions for access as established	conditions for access as established	verify that the conditions to request	
in this Regulation. In exceptional	in this Regulation. In exceptional	access to the EES are fulfilled in the	
cases of urgency, where early access	cases of urgency, where early access	concrete case at hand. The central	
is necessary to respond to a specific	is necessary to respond to a specific	access points should act	
and actual threat related to terrorist	and actual threat related to terrorist	independently of the designated	
offences or other serious criminal	offences or/other serious criminal	authorities and should be responsible	
offences, the central access point	offences, the central access point	for ensuring, in an independent	
should be able to process the request	should be able to process the request	manner, strict compliance with the	
immediately and only carry out the	immediately and only carry out the	conditions for access as established	
verification afterwards.	verification afterwards.	in this Regulation. [] Where early	
		access is necessary to respond to a	
		specific and actual threat related to	
		terrorist offences or other serious	
		criminal offences, the central access	
	V	point should be able to process the	



		request immediately and only carry	
		out the verification afterwards.	
(22) To protect personal data and to	(22) To protect personal data and to	(22) To protect personal data and to	
exclude systematic searches, the	exclude systematic searches, the	exclude systematic searches, the	
processing of EES data should only	processing of EES data should only	processing of EES data should only	
take place in specific cases and when	take place in specific cases and when	take place in specific cases and when	
it is necessary for the purposes of	it is necessary for the purposes of	it is necessary for the purposes of	
preventing, detecting or investigating	preventing, detecting or investigating	preventing, detecting or investigating	
terrorist offences or other serious	terrorist offences or other serious	terrorist offences or other serious	
criminal offences. The designated	criminal offences. The designated	criminal offences. The designated	
authorities and Europol should only	authorities and Europol should only	authorities and Europol should only	
request access to the EES when they	request access to the EES when they	request access to the EES when they	
have reasonable grounds to believe	have reasonable grounds to believe	have reasonable grounds to believe	
that such access will provide	that such access will provide	that such access will provide	
information that will substantially	information that will substantially	information that will substantially	
assist them in preventing, detecting	assist them in preventing, detecting	assist them in preventing, detecting	
or investigating a terrorist offence or	or/investigating a terrorist offence or	or investigating a terrorist offence or	
other serious criminal offence.	other serious criminal offence.	other serious criminal offence.	
(23) In addition, access to the EES	(23) In addition, access to the EES	(23) []	
for identification of unknown	for identification of unknown		
suspects, perpetrators or victims of	suspects, perpetrators or victions of		
terrorist offences or other serious	terrorist offences or other serious		
criminal offences should be allowed	criminal offences should be allowed		
only on the condition that searches	only on the condition that searches		
with the national fingerprint	with the national fingerprint		
databases of the Member State and	databases of the Member State and		
with the automated fingerprinting	with the automated fingerprinting		
identification systems of all other	identification systems of all other		
Member States under Council	Member States under Council		
Decision 2008/615/JHA ⁹ did not lead	Decision 2008/615/JHA ⁹ did not lead		

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



to the establishment of the identity of	to the establishment of the identity of		
the data subject Furthermore, access	the data subject Furthermore, access		
to the EES to consult the entry/exit	to the EES to consult the entry/exit		
records of a known person should be	records of a known person should be		
duly justified.	duly justified.		
(24) For the purpose of efficient	(24) For the purpose of efficient	(24) For the purpose of efficient	
comparison and exchange of	comparison and exchange of	comparison and exchange of	
personal data, Member States should	personal data, Member States should	personal data, Member States should	
fully implement and make use of the	fully implement and make use of the	fully implement and make use of the	
existing international agreements as	existing international agreements as	existing international agreements as	
well as of Union law concerning the	well as of Union law concerning the	well as of Union law concerning the	
exchange of personal data already in	exchange of personal data already in	exchange of personal data already in	
force, in particular of Decision	force, in particular of Decision	force, in particular of Decision	
2008/615/JHA.	2008/615/JHA.	2008/615/JHA.	
	(24a) Member States should ensure		
	that border guards have access to		
	Interpol's Stolen and Lost Travel		
	Documents database, and the		
	relevant national and Union		
	databases. They should also ensure		
	that border guards make full use of		
	their right to access those databases		
	when registering travellers from		
	third countries entering or exiting		
	the territory of the Union.		
(25) The personal data stored in the	(25) The personal data stored in the	(25) The personal data stored in the	
EES should be kept for no longer	EES should be kept for no longer	EES should be kept for no longer	
than is necessary for the purposes of	than <i>strictly</i> necessary for the	than is necessary for the purposes of	
the EES. It is appropriate to keep the	purposes for which the data are	the EES. It is appropriate to keep the	
data related to third country nationals	processed of the EES. It is	data related to third country nationals	
for a period of five years for border	appropriate sufficient to keep the	for a period of five years for border	
management purposes in order to	data related to third country nationals	management purposes in order to	
avoid the need for third country	who have lawfully used the EES	avoid the need for third country	



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

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

2004/38/EC ¹⁰ applies		
of a third country en	• •	
of free movement un		
and who do not hold	residence card	
referred to under Dir	ive	
2004/38/EC, it is app	priate to store	
each coupled entry/e	reccord	
<i>record</i> for a maximu	period of one	
year after the last exi	Following the	
expiry of the relevant	ata retention	
periods the data sho		
automatically erased		
10 Directive 2004	3/EC of the	
European Parliament		
Council of 29 April 2		
of citizens of the Unit	6	
family members to n		
freely within the terr		
Member States amen	•	
(EEC) No 1612/68 a	0 0	
Directives 64/221/EI		
72/194/EEC, 73/148		
72/194/EEC, 75/140 75/34/EEC, 75/35/EI		
	· · · · · · · · · · · · · · · · · · ·	
90/365/EEC and 93/	EEC (UJ L	
158, 30.4.2004, p. 77		

	(25a) A retention period of four years is necessary for data on third- country nationals who have not exited the territory of the Member States within the authorised period of stay in order to support the identification and return process. The data should be automatically erased after the period of four years, unless there are grounds to delete it		
	earlier.		
(26) A five year data retention	(26) A five <i>two</i> year data	(26) A five year data retention	
period is necessary to allow the	retention period is for the personal	period is necessary to allow the	
border guard performing the	data of third-country nationals who	border guard performing the	
necessary risk analysis requested by	have lawfully used the EES and of	necessary risk analysis requested by	
the Schengen Borders Code before	third-country nationals whose entry	the Schengen Borders Code before	
authorising a traveller entering the	for a short stay {or on the basis of a	authorising a traveller entering the	
Schengen area. The processing of	touring visa} has been refused and a	territory of Member States []. The	
visa application in consular posts	four year data retention period for	processing of visa application in	
requires also analysing the travel	the personal data of third country	consular posts requires also	
history of the applicant to assess the	nationals who have not exited the	analysing the travel history of the	
use of previous visas and the respect	territory of the Member States	applicant to assess the use of	
of the conditions of stay. The	within the authorised period of stay	previous visas and the respect of the	
abandoning of passport stamping will	are necessary to allow the border	conditions of <u>authorised</u> stay. The	
be compensated by a consultation of	guard performing to perform the	abandoning of passport stamping will	
the EES. The travel history available	necessary risk analysis requested by	be compensated by a consultation of	
in the system should therefore cover	the Schengen Borders Code before	the EES. The travel history available	
a period of time which is sufficient	authorising a traveller entering to	in the system should therefore cover	
for the purpose of visa issuance. The	enter the Schengen area. The	a period of time which is sufficient	
five year data retention period will	processing of visa application	for the purpose of visa issuance. The	
reduce the re-enrolment frequency	applications in consular posts also	five year data retention period will	
and will be beneficial for all	requires also analysing the travel	reduce the re-enrolment frequency	
travellers as the average border	history of the applicant to assess the	and will be beneficial for all	



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crossing time will decrease as will do	use of previous visas and the respect	travellers as the average border	
the waiting time at border crossing	of whether the conditions of stay	crossing time will decrease as will do	
points. Even for a traveller entering	have been respected. The	the waiting time at border crossing	
only once in the Schengen area, the	abandoning of passport stamping will	points. Even for a traveller entering	
fact that other travellers being	be compensated by a consultation of	only once in the <u>territory of Member</u>	
already registered in the EES will not	the EES. The travel history available	States [], the fact that other	
have to re-enrol will reduce the	in the system should therefore cover	travellers being already registered in	
waiting time at border. This data	a period of time which is sufficient	the EES will not have to re-enrol will	
retention period will also be	for the purpose of visa issuance.	reduce the waiting time at border.	
necessary to allow for facilitation for	The five year data retention period	This data retention period will also	
the border crossing by using process	will reduce the re-enrolment	be necessary to allow for facilitation	
accelerators and self-service systems.	frequency and will be beneficial for	for the border crossing by using	
Such facilitation is dependent of the	all travellers as the average border	process accelerators and self-service	
data registered in the system. A	crossing time will decrease as will do	systems. Such facilitation is	
shorter data retention period would	the waiting time at border crossing	dependent of the data registered in	
have a negative impact on the	points. Even for a traveller entering	the system. A shorter data retention	
duration of border controls. A shorter	only once in the Schengen area, the	period would have a negative impact	
data retention period would also	fact that other travellers being	on the duration of border checks	
reduce the group of travellers that	already registered in the EES will not	[]. A shorter data retention period	
can benefit of such facilitation and	have to re-enrol will reduce the	would also reduce the group of	
thereby undermine the stated	waiting time at border. This data	travellers that can benefit of such	
objective of EES to facilitate border	retention period will also be	facilitation and thereby undermine	
crossing.	necessary to allow for facilitation for	the stated objective of EES to	
	the border crossing by using process	facilitate border crossing.	
	accelerators and self-service systems.		
	Such facilitation is dependent of the		
	data registered in the system. A		
	shorter data retention period would		
	have a negative impact on the		
	duration of border controls. A shorter		
	data retention period would also		
	reduce the group of travellers that		
	can benefit of such facilitation and		

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	thereby undermine the stated objective of EES to facilitate border crossing. While performing the risk analysis at the border and while processing a visa application, the travel history of third-country nationals should be checked in order to determine whether they have exceeded the maximum duration of their authorised stay in the past. It is thus necessary to retain the personal data of third- country nationals who have not exited the territory of the Member States within the authorised period of stay for the longer period of four years compared to that for the personal data of the third-country nationals who have lawfully used the system and of third-country nationals whose entry for a short stay {or on the basis of a touring visa} has been refused.		
(27) The same retention period of	deleted	(27) The same retention period of	
five years would be necessary for data on persons who have not exited		five years would be necessary for data on persons who have not exited	
the territory of the Member States		the territory of the Member States	
within the authorised period of stay		within the authorised [] stay in	
in order to support the identification		order to support the identification	
and return process and for persons		and return process and for persons	
whose entry for a short stay {or on		whose entry for a short stay [or on	
the basis of a touring visa} has been		the basis of a touring visa] has been	
refused. The data should be deleted		refused. The data should be deleted	



after the period of five years, unless		after the period of five years, unless	
there are grounds to delete it earlier.		there are grounds to delete it earlier.	
(28) Precise rules should be laid	deleted	(28) Precise rules should be laid	
down as regards the responsibilities		down as regards the responsibilities	
for the development and operation of		for the development and operation of	
the EES and the responsibilities of		the EES and the responsibilities of	
the Member States for the connection		the Member States for the connection	
to the EES. The Agency for the		to the EES. The Agency for the	
operational management of large-		operational management of large-	
scale information systems in the area		scale information systems in the area	
of freedom, security and justice,		of freedom, security and justice,	
established by Regulation (EU) No		established by Regulation (EU) No	
1077/2011 of the European		1077/2011 of the European	
Parliament and of the Council ¹¹ ,		Parliament and of the Council ¹¹ ,	
should be responsible for the		should be responsible for the	
development and operational		development and operational	
management of a centralised EES in		management of a centralised EES in	
accordance with this Regulation and		accordance with this Regulation and	
the relevant provisions of Regulation		the relevant provisions of Regulation	
(EU) No 1077/2011 should be		(EU) No 1077/2011 should be	
amended accordingly.		amended accordingly.	
(29) Rules on the liability of the	(29) Rules on the liability of the	(29) Rules on the liability of the	
Member States in respect to damage	Member States in respect to damage	Member States in respect to damage	
arising from any breach of this	arising from any breach of this	arising from any breach of this	
Regulation should be laid down.	Regulation should be laid down.	Regulation should be laid down.	



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

(30) Directive 95/46/EC of the	(30) Regulation (EU) 2016/679	(30) Directive 95/46/EC of the	
European Parliament and of the	Directive 95/46/EC of the European	European Parliament and of the	
Council ¹² applies to the processing of		Council ¹² applies to the processing of	
personal data by the Member States	applies to the processing of personal	personal data by the Member States	
in application of this Regulation	data by the Member States in	in application of this Regulation	
unless such processing is carried out	application of this Regulation unless	unless such processing is carried out	
by the designated or verifying	such processing is carried out by the	by the designated or verifying	
authorities of the Member States for	designated or verifying authorities of	authorities of the Member States for	
the purposes of the prevention,	the Member States for the purposes	the purposes of the prevention,	
detection or investigation of terrorist	of the prevention, <i>investigation</i> ,	detection or investigation of terrorist	
offences or of other serious criminal	detection or investigation	offences or of other serious criminal	
offences.	prosecution of terrorist offences or	offences.	
	of other serious criminal offences.		
	¹² Directive 95/46/EC of the		
	European Parliament and of the		
	Council of 24 October 1995 on the		
	protection of individuals with regard		
	to the processing of personal data		
	and on the free movement of such		
	data Regulation (EU) 2016/679 of		
	27 April 2016 of the European		
	Parliament and of the Council on		
	the protection of natural persons		
	with regard to the processing of		
	personal data and on the free		
	movement of such data, and		
	repealing Directive 95/46/EC		
	(General Data Protection		
	<i>Regulation</i>) (OJ L 281- <i>119</i> ,		

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

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

offences or of other serious cri offences pursuant to this Regulation. ^{12a} Council Framework Decisio 2008/977/JHA of 27 Novembe on the protection of personal da processed in the framework of and judicial co-operation in cri matters (OJ L 350, 30.12.2008, 60). Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons w regard to the processing of per data by competent authorities j the purposes of the prevention, investigation, detection or prosecution of criminal offence	n r 2008 atta police minal , p. e he te with rsonal for , es or
prosecution of criminal offenc the execution of criminal pena and on the free movement of s data, and repealing Council	lties, uch
Framework Decision 2008/977 (OJ L 119, 4.5.2016, p. 89).	//JHA
	31a In accordance with Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the
	Member States of the European Union, information contained in the



		EES can be provided to Member	
		States not operating the EES, and to	
		Member States to which this	
		Regulation does not apply, by the	
		competent authorities of the Member	
		States whose designated authorities	
		have access to the EES pursuant to	
		this Decision. Such provision of	
		information should be subject to a	
		duly motivated request, and limited	
		to where it is necessary for the	
		prevention, detection or investigation	
		of a terrorist offence or another	
		serious criminal offence. A Member	
		1 · · ·	
· · · · · ·	•	•	
1	I		
0		0	
made available to a third country,		or made available to a third country,	
international organisation or any	an international organisation or any	an international organisation or any	
ivate party established in or outside	private party established in or outside	private party established in or outside	
e Union except if necessary in	the Union except if necessary in	the Union except if necessary in	
dividual cases in order to assist the	individual cases in order to assist the	individual cases in order to assist the	
entification of a third country	identification of a third country	identification of a third country	
international organisation or any ivate party established in or outside e Union except if necessary in dividual cases in order to assist the	private party established in or outside the Union except if necessary in	State that operates the EES may only provide such information if a reciprocal provision of any information on entry/exit records held by the requesting Member State to the Member States operating the EES is ensured. Framework Decision 2008/977/JHA applies to all the subsequent treatment of data obtained from the EES.(32) Personal data obtained by Member States pursuant to this Regulation should not be transferred or made available to a third country, 	



national in relation to his/her return	national in relation to his/her return /	national in relation to his/her return	
and subject to strict conditions.	and subject to strict conditions	and subject to strict conditions or in	
		an exceptional case of urgency,	
		where there is an immediate and	
		serious threat of a terrorist offence or	
		other serious criminal offences and in	
		accordance with Framework	
		Decision 2008/977/JHA. With regard	
		to the rules on transfer of data, the	
		return of overstayers should be	
		regarded as an important public	
		interest. Such data should only be	
		transferred to a third country if the	
		reciprocal provision of any	
		information on entry/exit records	
		held by the requesting third country	
		to the Member States operating the	
	\bigvee	EES is ensured.	



<u>32a.</u> The transfer of data to a third
country, to a Member State not
operating the EES, or to a Member
State to which this Regulation does
not apply, and which is authorised in
a exceptional case of urgency, where
there is an immediate and serious
threat of a terrorist offence or other
serious criminal offence should be
carried out in accordance with the
applicable conditions set under
Directive (EU) 2016/680 ^{13a} once this
Directive would became applicable.

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



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



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

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

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

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	protection.		
(38) The effective monitoring of the	(38) The effective monitoring of the	(38) The effective monitoring of the	
application of this Regulation	application of this Regulation	application of this Regulation	
requires evaluation at regular	requires evaluation at regular	requires evaluation at regular	
intervals. The Member States should	intervals. The Member States should	intervals. The Member States should	
lay down rules on penalties	lay down rules on penalties	lay down rules on penalties	
applicable to infringements of the	applicable to infringements of the	applicable to infringements of the	
provisions of this Regulation and	provisions of this Regulation and	provisions of this Regulation and	
ensure that they are implemented.	ensure that they are implemented.	ensure that they are implemented.	
(39) In order to ensure uniform	(39) In order to ensure uniform	(39) In order to ensure uniform	
conditions for the implementation of	conditions for the implementation of	conditions for the implementation of	
this Regulation, implementing	this Regulation, implementing	this Regulation, implementing	
powers should be conferred on the	powers should be conferred on the	powers should be conferred on the	
Commission. Those powers should	Commission. Those powers should	Commission. Those powers should	
be exercised in accordance with	be exercised in accordance with	be exercised in accordance with	
Regulation (EU) No 182/2011 of the	Regulation (EU) No 182/2011 of the	Regulation (EU) No 182/2011 of the	
European Parliament and of the	European Parliament and of the	European Parliament and of the	
Council ¹⁵ .	Council ¹⁵ .	Council ¹⁵ .	
	(39a) By the start operations it		
	should be assumed that all		
	remaining internal border controls		
	have been lifted and that all the		
	current Schengen Member States		
	apply Title III of Regulation (EU)		
	2016/399 of the European		
	Parliament and of the Council $15a$.		
	The EES as a border management		
	tool enhancing the efficiency of		
	border checks by calculating and		
	monitoring the duration of the		

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

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	authorised stay should therefore be developed and its integration into national border infrastructures be prepared on the basis of one common area without internal border controls in which persons may move freely for one defined period of authorised stay.		
	^{15a} 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) (OJ L 77, 23.3.2016, p. 1).		
(40) The establishment of a common EES and the creation of common obligations, conditions and procedures for use of data cannot be	(40) The establishment of a common EES and the creation of common obligations, conditions and procedures for use of data capnot be	(40) The establishment of a common EES and the creation of common obligations, conditions and procedures for use of data cannot be	
sufficiently achieved by the Member States and can therefore, by reason of the scale and impact of the action, be better achieved at Union level in	sufficiently achieved by the Member States and can therefore, by reason of the scale and impact of the action, be better achieved at Union level in	sufficiently achieved by the Member States and can therefore, by reason of the scale and impact of the action, be better achieved at Union level in	
accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of	accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of	accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of	
proportionality, as set out in that Article, the Regulation does not go beyond what is necessary in order to achieve this objective.	proportionality, as set out in that Article, the Regulation does not go beyond what is necessary in order to achieve this objective.	proportionality, as set out in that Article, the Regulation does not go beyond what is necessary in order to achieve this objective.	



(41) Following the entry into operation of the Entry/Exit System, Article 20(2) of the Convention implementing the Schengen Agreement should be amended as it is incompatible with Article 77(2)(a) and (c) of the Treaty on Functioning of the European Union due to the fact that the common policy on visas cannot be based on the existence or non-existence of bilateral visa waiver agreements concluded by Member States and the authorised length of stay of third country nationals should not depend on the number and content of such bilateral agreements. Furthermore the Entry/Exit system could not take into account of and calculate the authorised length of stay of visa free third country nationals benefitting from such agreements and they should be	that the common policy on visas cannot be based on the existence or non-existence of bilateral visa waiver agreements concluded by Member States and the authorised length of stay of third country nationals should not depend on the number and content of such bilateral agreements. Furthermore the Entry/Exit system could not take into account of and calculate the authorised length of stay of visa free third country nationals benefitting from such	 (41) Following the entry into operation of the [] EES, Article 20(2) of the Convention implementing the Schengen Agreement should be amended [] with regard to bilateral [] agreements concluded by Member States and the authorised length of stay beyond 90 days in any 180-day period of third country nationals exempt from the visa obligation []. [] 	
agreements and they should be eliminated.	agreements and they should be eliminated.		

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

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



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

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



hound by it on subject to its	hound by it on subject to its	hound by it or subject to its	
bound by it or subject to its	bound by it or subject to its	bound by it or subject to its	
application.	application.	application.	
(47) This Regulation constitutes a	(47) This Regulation constitutes a	(47) 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 Ireland	Schengen acquis in which Ireland	Schengen acquis in which Ireland	
does not take part, in accordance	does not take part, in accordance	does not take part, in accordance	
with Council Decision	with Council Decision	with Council Decision	
2002/192/EC ¹⁸ ; Ireland is therefore	$2002/192/EC^{18}$; Ireland is therefore	2002/192/EC ¹⁸ ; Ireland is therefore	
not taking part in the adoption of this	not taking part in the adoption of this	not taking part in the adoption of this	
Regulation and is not bound by it or	Regulation and is not bound by it or	Regulation and is not bound by it or	
subject to its application.	subject to its application.	subject to its application.	
(48) As regards Iceland and	(48) As regards Iceland and	(48) As regards Iceland and	
Norway, this Regulation constitutes a	Norway, this Regulation constitutes a	Norway, this Regulation constitutes a	
development of the provisions of the	development of the provisions of the	development of the provisions of the	
Schengen <i>acquis</i> within the meaning	Schengen <i>acquis</i> within the meaning	Schengen <i>acquis</i> within the meaning	
of the Agreement concluded by the	of the Agreement concluded by the	of the Agreement concluded by the	
Council of the European Union and	Council of the European Union and	Council of the European Union and	
the Republic of Iceland and the	the Republic of Iceland and the	the Republic of Iceland and the	
Kingdom of Norway concerning the	Kingdom of Norway concerning the	Kingdom of Norway concerning the	
latters' association with the	latters' association with the	latters' association with the	
implementation, application and	implementation, application and	implementation, application and	
development of the Schengen	development of the Schengen	development of the Schengen	
acquis ¹⁹ which fall within the area	acquis ¹⁹ which fall within the area	acquis ¹⁹ which fall within the area	
referred to in Article 1, point A of	referred to in Article 1, point A of	referred to in Article 1, point A of	
Council Decision 1999/437/EC ²⁰ .	Council Decision $1999/437/EC^{20}$.	Council Decision 1999/437/EC ²⁰ .	
(49) As regards Switzerland, this	(49) As regards Switzerland, this	(49) As regards Switzerland, this	

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

¹⁹ OJ L 176, 10.7.1999, p. 36.

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

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

²¹ OJ L 53, 27.2.2008, p. 52.

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

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



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

- ²⁴ OJ L 160, 18.6.2011, p. 21.
- ²⁵ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).
- ²⁶ Council Decision 2011/349/EU of 7 March 2011 on the conclusion on behalf of the European Union of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis relating in particular to judicial cooperation in criminal matters and police cooperation (OJ L 160, 18.6.2011, p. 1).

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



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



purposes of the prevention, detection and investigation of terrorist offences or of other serious criminal offences.	States' designated law enforcement authorities and the European Police Office (Europol) may obtain access for consultation of the EES for the purposes of the prevention, detection and investigation of terrorist offences or of other serious criminal offences.	prevention, detection and investigation of terrorist offences or of other serious criminal offences.	<i>limitations]</i> under which Member States' designated [] authorities and the European Police Office (Europol) may obtain access for consultation of the EES. Addition of a recital specifying that all rules of this Regulation, including police directive, to apply also to intelligence authorities. "and limitations": The Presidency suggests not to accept the addition to keep text aligned with Ch. IV. Keep Council text.
Article 2	Article 2	Article 2	
Scope	Scope	Scope	
1. This Regulation applies to third	1. This Regulation applies to third	1. This Regulation applies to third	Commission proposal:
country nationals admitted for a short	country nationals admitted for a short	country nationals admitted for a short	1. This Regulation applies to third
stay {or on the basis of a touring	stay {or on the basis of a touring	stay [or on the basis of a touring	country nationals admitted for a short
visa} in the territory of the Member	visa} in the territory of the Member	visa] in the territory of the Member	stay [or on the basis of a touring
States subject to border checks in	States subject to border checks in	States subject to border checks in	visa] in the territory of the Member
accordance with Regulation (EU)	accordance with Regulation (EU)	accordance with Regulation (EU)	States subject to border checks in
2016/399 when crossing the external	2016/399 when crossing the external	2016/399 when crossing the $[\ldots]$	accordance with Regulation (EU)
borders of the Member States. When	borders of the Member States. When	borders at which the EES is operated	2016/399 when crossing the borders
entering and exiting the territory of	entering and exiting the territory of	[]. When entering and exiting the	at which the EES is operated. When
the Member States, it applies to third	the Member States, it applies to third	territory of the Member States, it	entering and exiting the territory of
country nationals who are family	country nationals who are family	applies to third country nationals	the Member States, it applies to third
members of a Union citizen to whom	members of a Union citizen to whom	who are [] members of [] <u>the</u>	country nationals:
Directive 2004/38/EC applies or of a	Directive 2004/38/EC applies or of a	<u>family</u> of [] national <u>s</u> of third	who are family members of a Union
national of a third country enjoying	national of a third country enjoying	countr <u>ies</u> enjoying the right of free	citizen to whom Directive
the right of free movement under	the right of free movement under	movement under Union law or	2004/38/EC applies or of a national
Union law and who do not hold a	Union law and who do not hold a	enjoying the right of free movement	of a third country enjoying the right

residence card referred to under Directive 2004/38/EC.	residence card referred to under Directive 2004/38/EC.	equivalent to that of Union citizens under an agreement between the Union and its Member States on the one hand and a third country on the other, and who do not hold a residence card referred to under Directive 2004/38/EC or a residence document pursuant to the agreement as applicable.	of free movement under Union law and who do not hold a residence card referred to under Directive2004/38/EC.i) who are family members of a Union citizen to whom Directive2004/38/EC applies or of a national of a third country enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States on the one hand and a third country on the other; and ii) who do not hold a residence card referred to under Directive 2004/38/EC or a residence permit pursuant to Regulation (EC) No 1030/2002.
2. This Regulation also applies to third country nationals whose entry for a short stay {or on the basis of a touring visa} to the territories of the Member States is refused in accordance with Article 14 of Regulation (EU) 2016/399.	2. This Regulation also applies to third country nationals whose entry for a short stay {or on the basis of a touring visa} to the territories of the Member States is refused in accordance with Article 14 of Regulation (EU) 2016/399.	2. This Regulation also applies to third country nationals whose entry for a short stay [or on the basis of a touring visa] to the territories of the Member States is refused in accordance with Article 14 of Regulation (EU) 2016/399.	
3. This Regulation does not apply to:	3. This Regulation does not apply to:	3. This Regulation does not apply to:	

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 (a) family members of a Union citizen to whom Directive 2004/38/EC applies who hold a residence card pursuant to that Directive; 	 (a) family members of a Union citizen to whom Directive 2004/38/EC applies who hold a residence card pursuant to that Directive; 	 (a) [] <u>third country nationals</u> <u>who are members of the family</u> of a Union citizen to whom Directive 2004/38/EC applies <u>and</u> who hold a residence card pursuant to that 	 <u>Commission proposal:</u> (a) third country nationals who are members of the family of a Union citizen to whom Directive 2004/38/EC applies and who hold a
		Directive;	residence card pursuant to that Directive;
(b) family members of third country nationals enjoying the right of free movement under Union law who hold a residence card pursuant to Directive 2004/38/EC;	(b) family members of third country nationals enjoying the right of free movement under Union /aw who hold a residence card pursuant to Directive 2004/38/EC;	(b) [] third country nationals who are members of the family of nationals of third countries enjoying the right of free movement under Union law <u>or enjoying the right of</u> free movement equivalent to that of <u>Union citizens under an agreement</u> between the Union and its Member States on the one hand and a third country on the other, and who hold a residence card pursuant to Directive 2004/38/EC <u>or a residence document</u> pursuant to the agreement as applicable;	<i>Commission proposal:</i> (b)third country nationals who are members of the family of a national of a third country enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States on the one hand and a third country on the other and who hold a residence card pursuant to Directive 2004/38/EC or a residence permit pursuant to Regulation 1030/2002;
(c) holders of residence permits referred to in point 16 of Article 2 of Regulation (EU) 2016/399 other than those covered by points (a) and (b) of this paragraph;	(c) holders of residence permits referred to in point 16 of Article 2 of Regulation (EU) 2016/399 other than those covered by points (a) and (b) of this paragraph;	 (c) holders of residence permits referred to in point 16 of Article 2 of Regulation (EU) 2016/399 other than those covered by points (a) and (b) of this paragraph; (cc) third country nationals exercising mobility in accordance with Directive 2014/66/EU or Directive (EU) 2016/801; 	<i>Provisionally agreed:</i> (cc) third country nationals exercising mobility in accordance with Directive 2014/66/EU or Directive (EU) 2016/801;



(d) holders of long-stay visas;	(d) holders of long-stay visas;	(d) holders of long-stay visas;	
(e) nationals of Andorra, Monaco	(e) nationals of Andorra, Monaeo	(e) nationals of Andorra, Monaco,	Provisionally agreed:
and San Marino;	and San Marino;	[] San Marino, and holders of a	(e) nationals of Andorra, Monaco,
		passport issued by the Vatican City	[] San Marino, and holders of a
		State;	passport issued by the Vatican City
			State;
(f) persons or categories of	(f) persons or categories of	(f) persons or categories of	To be discussed with amendments to
persons exempt from or benefiting	persons exempt from or benefiting	persons exempt from <u>border checks</u>	SBC
from facilitation of border crossing	from facilitation of border crossing	or benefiting from facilitation of	
as referred to in Article 6a (3)(d),(e)	as referred to in Article 6a (3)(d),(e)	border crossing as referred to in	
and (f) of Regulation (EU) 2016/399.	and (f) of Regulation (EU) 2016/399.	Article 6a (3)(d) [] of Regulation	
		(EU) 2016/399	
		(g) persons or categories of	To be discussed with amendments to
		persons as referred to in Article 6a	SBC
		(3) (e), (f), (g) and (h) of Regulation	
		<u>(EU) 2016/399.</u>	
This Regulation does not apply to	This Regulation does not apply to	This Regulation does not apply to	Provisionally agreed:
family members referred to in points	family members referred to in points	third country nationals who are []	This Regulation does not apply to
(a) and (b) of the first subparagraph	(a) and (b) of the first subparagraph	members of the family referred to in	third country nationals who are
even if they are not accompanying or	even if they are not accompanying or	points (a) and (b) of the first	members of the family referred to in
joining the Union citizen or a third	joining the Union citizen or a third	subparagraph even if they are not	points (a) and (b) of the first
country national enjoying the right of	country national enjoying the right of	accompanying or joining the Union	subparagraph even if they are not
free movement.	free movement.	citizen or a third country national	accompanying or joining the Union
		enjoying the right of free movement.	citizen or a third country national
			enjoying the right of free movement.
4. The provisions of this	4. The provisions of this	4. The provisions of this	
Regulation regarding the calculation	Regulation regarding the calculation	Regulation regarding the calculation	Commission proposal:
of the duration of stay and the	of the duration of stay and the	of the duration of <u>the authorised</u> stay	4. The provisions of this
generation of alerts to Member States	generation of alerts to Member States	and the generation of alerts to	Regulation regarding the calculation
when authorised periods for stay	when authorised periods for stay	Member States when the authorised	of the duration of the authorised stay
have expired do not apply to third	have expired do not apply to third	[] stay has expired do not apply to	and the generation of alerts to
country nationals who are family	country nationals who are family	third country nationals who are	Member States when the authorised
members of a Union citizen to whom	members of a Union citizen to whom	family members of a Union citizen to	stay has expired do not apply to third



Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement under Union law and who do not hold a residence card referred to under Directive 2004/38/EC.	Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement under Union law and who do not hold a residence card referred to under Directive 2004/38/EC.	whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement under Union law and who do not hold a residence card referred to under Directive 2004/38/EC.	country nationals: who are family members of a Union citizen to whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement under Union law and who do not hold a residence card referred to under Directive 2004/38/EC. i) who are family members of a Union citizen to whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States on the one hand and a third country on the other; and ii) who do not hold a residence card referred to under Directive 2004/38/EC or a residence permit pursuant to Regulation (EC) No 1030/2002.
Article 3 Definitions	Article 3 Definitions	Article 3 Definitions	
Definitions1. For the purposes of thisRegulation, the following definitionsapply:	Deptitions1. For the purposes of thisRegulation, the following definitionsapply:	Depinitions1. For the purposes of thisRegulation, the following definitionsapply:	
 (1) 'external borders' mean external borders as defined in Article 2(2) of Regulation (EU) 2016/399; 	 (1) 'external borders' mean external borders as defined in Article 2(2) of Regulation (EU) 2016/399; 	 (1) 'external borders' means 'external borders' as defined in Article 2(2) of Regulation (EU) 2016/399; 	

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		(1a) <u>'internal borders' means</u>	
		<u>internal borders as defined in Article</u> 2(1) of Regulation (EU) 2016/399;	
(2) 'border authorities' mean the competent authorities assigned, in accordance with national law, to carry out checks on persons at the external border crossing points in accordance with Regulation (EU) 2016/399;	(2) 'border authorities' mean the competent authorities assigned, in accordance with national law, to carry out checks on persons at the external border crossing points in accordance with Regulation (EU) 2016/399;	 (2) 'border <u>check</u> authorities' mean the competent authorities assigned, in accordance with national law, to carry out checks on persons at the [] border crossing points <u>at which the EES is operated</u> in accordance with <u>Article 60 of this</u> Regulation []; 	Provisionally agreed (2) 'border authorities' mean the border guard assigned in accordance with national law to carry out border checks as defined in Article 2(11) of Regulation (EU) 2016/399;
(3) 'immigration authorities' mean the competent authorities assigned, in accordance with national law, to examine the conditions and take decisions related to the stay of third country nationals on the territory of the Member States;	(3) 'immigration authorities' mean the competent authorities assigned, in accordance with national law, to examine the conditions and take decisions related to the stay of third country nationals on the territory of the Member States;	(3) 'immigration authorities' mean the competent authorities assigned, in accordance with national law, to:	Provisionally agreed: (3) 'immigration authorities' mean the competent authorities responsible, in accordance with national law, <u>for</u> :
		(a) check within the territory of the Member States whether the conditions for entry to or of authorised stay in the territory of the Member States are fulfilled and/or	(a) <u>checks</u> within the territory of the Member States whether the conditions for entry to or of authorised stay in the territory of the Member States are fulfilled and/or
		(b) examine the conditions and take decisions related to the [] <u>residence of third country nationals</u> on the territory of the Member States <u>and where relevant provide advice in</u> <u>accordance with Regulation (EU)</u> <u>377/2004 and/or;</u>	(b) <u>examining</u> the conditions and take decisions related to the residence of third country nationals on the territory of the Member States and where relevant provide advice in accordance with Regulation (EU) 377/2004 and/or;
		<u>c)</u> <u>facilitate the return of third</u> <u>country nationals to a third country</u> <u>of origin or transit.</u>	(c) the return of third country nationals to a third country of origin or transit.



(4) 'visa authorities' mean the competent authorities, including the central visa authorities and the authorities responsible for issuing visas at the external border, which are responsible in each Member State for examining visa applications, for taking decisions on visa applications and for taking decisions on whether to annul, revoke or extend visas,	(4) 'visa authorities' mean the competent authorities, including the central visa authorities and the authorities responsible for issuing visas at the external border, which are responsible in each Member State for examining visa applications, for taking decisions on visa applications and for taking decisions on whether to annul, revoke or extend visas,	(4) 'visa authorities' mean the [] authorities <u>as defined in Article 4(3)</u> <u>of Regulation (EC) No 767/2008</u> [];	
		(4a) 'determining authority' means any quasi-judicial or administrative body in a Member State responsible for examining applications for international protection competent to take decisions at first instance in such cases,	
	(4a) 'designated law enforcement authorities' means the authorities responsible for the prevention, detection or investigation of terrorist offences or of other serious criminal offences designated by the Member States pursuant to Article 26;		
(5) 'third country national' means any person who is not a citizen of the Union within the meaning of Article 20 of the Treaty, with the exception of persons who enjoy rights of free movement equivalent to those of Union citizens under agreements between the Union, or the Union and its Member States on the one hand,	(5) 'third country national' means any person who is not a citizen of the Union within the meaning of Article 20 of the Treaty, with the exception of persons who enjoy rights of free movement equivalent to those of Union citizens under agreements between the Union, or the Union and its Member States on the one hand,	(5) 'third country national' means any person who is not a citizen of the Union within the meaning of Article 20 (1) of the [] <u>TFEU</u> , with the exception of persons who enjoy rights of free movement equivalent to those of Union citizens under agreements between the Union, or the Union and its Member States on	



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



		man than 00 days in any 190 days	
		more than 90 days in any 180-day	
		period;	
(9) 'touring visa' means an	(9) 'touring visa' means an	(9) ['touring visa' means visa as	
authorisation issued by a Member	authorisation issued by a Member	defined in Article 3(2) of Regulation	
State with a view to an intended stay	State with a view to an intended stay	(EU) No xxx/20xx establishing a	
in the territory of two or more	in the territory of two or more	touring visa and amending the	
Member States for a duration of	Member States for a duration of	Convention implementing the	
more than 90 days in any 180 day	more than 90 days in any 180 day	Schengen Agreement and	
period, provided that the applicant	period, provided that the applicant	Regulations (EC) No 562/2006 and	
does not intend to stay for more than	does not intend to stay for more than	(EC) No 767/2008 []];	
90 days in any 180 day period in the	90 days in any 180 day period in the		
territory of the same Member State;	territory of the same Member State		
	12 months in any 15 month period,		
	provided that the applicant does not		
	stay for more than 90 days in any		
	180 day period in the territory of the		
	same Member State;		
		(9a) 'visa' means short stay visa	
		[and touring visa];	
		(9b) 'authorised stay' means the	
		exact number of days during which a	
		third country national may legally	
		stay in the territory of Member	
		States, counting from the date of the	
		entry in accordance with the	
		applicable provisions;	
(10) 'carriers' mean any natural or	(10) 'carriers' mean any natural or	(10) 'carriers' mean <u>s carriers, as</u>	
legal person whose profession it is to	legal person whose profession it is to	defined in Article 2(15) of	
provide transport of persons;	provide transport of persons;	<u>Regulation (EU) 2016/399 [];</u>	
(11) 'Member State responsible'	(11) 'Member State responsible'	(11) 'Member State responsible'	
means the Member State which has	means the Member State which has	means the Member State which has	
entered the data in the EES;	entered the data in the EES;	entered the data in the EES;	



 (12) 'verification' means the process of comparing of sets of data to establish the validity of a claimed identity (one-to-one check); (13) 'identification' means the 	 (12) 'verification' means the process of comparing of sets of data to establish the validity of a claimed identity (one-to-one check); (13) 'identification' means the 	 (12) 'verification' means the process of comparing of sets of data to establish the validity of a claimed identity (one-to-one check); (13) 'identification' means the 	
process of determining a person's	process of determining a person's	process of determining a person's	
identity through a database search	identity through a database search	identity through a database search	
against multiple sets of data (one-to-	against multiple sets of data (one-to-	against multiple sets of data (one-to-	
many check);	many check);	many check);	
(14) 'alphanumeric data' means data	(14) 'alphanumeric data' means data	(14) 'alphanumeric data' means data	
represented by letters, digits, special	represented by letters, digits, special	represented by letters, digits, special	
characters, space and punctuation	characters, space and punctuation	characters, space and punctuation	
marks;	marks;	marks;	
(15) 'fingerprint data' means the data relating to fingerprints of the index, middle finger, ring finger and little finger from the right hand, where present, and otherwise from the left hand, or a latent fingerprint;	(15) 'fingerprint data' means the data relating to fingerprints of the index, middle finger, ring finger and little finger from the right hand, where present, and otherwise from the left hand, <i>with sufficient image</i> <i>resolution and quality to be used in</i> <i>automated biometric matching</i> , or a latent fingerprint;	(15) 'fingerprint data' means the data relating to <u>four</u> fingerprints of the index, middle finger, ring finger and little finger from the right hand, where present, and otherwise from the left hand, [] <u>with sufficient</u> resolution and quality to be used in <u>automated biometric matching</u> ;	Presidency proposes to move the rules concerning the resolution and the quality of fingerprints in the operative part of the articles, namely under article 15(1). Delegations are encouraged to accept the following compromise proposal: (15) 'fingerprint data' means the data relating to the <u>four</u> fingerprints of the index, middle finger, ring finger and little finger <i>from the right</i> <i>or left hand</i> ;
(16) 'facial image' means digital	(16) 'facial image' means digital	(16) 'facial image' means digital	
images of the face with sufficient	images of the face with sufficient	images of the face with sufficient	
image resolution and quality to be	image resolution and quality to be	image resolution and quality to be	
used in automated biometric	used in automated biometric	used in automated biometric	
matching;	matching;	matching;	



(17) 'biometric data' means	(17) 'biometric data' means	(17) 'biometric data' means	
fingerprint data and facial image;	fingerprint data and facial image;	fingerprint data and facial image;	
(18) 'overstayer' means a third	(18) 'overstayer' means a third	(18) 'overstayer' means a third	
country national who does not fulfil,	country national who does not fulfil,	country national who does not fulfil,	
or no longer fulfils the conditions	or no longer fulfils the conditions	or no longer fulfils the conditions	
relating to the duration of a short stay	relating to the duration of a short stay	relating to [] his or her authorised	
on the territory of the Member	on the territory of the Member	stay on the territory of the Member	
5	States;	5	
States;		States;	
(19) 'eu-LISA' means the European	(19) 'eu-LISA' means the European	(19) 'eu-LISA' means the European	
Agency for the operational	Agency for the operational	Agency for the operational	
management of large-scale	management of large-scale	management of large-scale	
information systems in the area of	information systems in the area of	information systems in the area of	
freedom, security and justice	freedom, security and justice	freedom, security and justice	
established by Regulation (EU) No	established by Regulation (EU) No	established by Regulation (EU) No	
1077/2011;	_1077/2011;	1077/2011;	
(20) 'Frontex' means the European	(20) 'Frontex' means the European	(20) [];	Deletion of definition provisionally
Agency for the Management of	Agency for the Management of		<mark>agreed</mark>
Operational Cooperation at the	Operational Cooperation at the		
External Borders of the Member	External Borders of the Member		
States of the European Union	States of the European Union		
established by Regulation (EC) No	European Border and Coast Guard		
2007/2004;	Agency established by Regulation		
	(EC) No 2007/2004 (EU) 2016/1624		
	of the European Parliament and of		
	the Council ^{1a} ;		
	^{<i>Ia</i>} Regulation (EU) 2016/1624 of the		
	European Parliament and of the		
	Council of 14 September 2016 on		
	the European Border and Coast		
	Guard and amending Regulation		
	(EU) 2016/399 of the European		
	Parliament and of the Council and		



	repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC (OJ L 251, 16.9.2016, p. 1).		
(21) 'supervisory authority' means the supervisory authorities established in accordance with Article 28 of Directive 95/46/EC;	deleted	(21) 'supervisory authority' means the supervisory authorities established in accordance with Article 28 of Directive 95/46/EC;	Provisionally agreed: (21) "supervisory authorities" means the supervisory authority established in accordance with Article 51(1) of Regulation (EU) 2016/679 and the supervisory <u>authority established</u> in accordance with Article 41(1) of Directive (EU) 2016/680;
(22) 'national supervisory authority' as regards law enforcement purposes means the supervisory authorities established in accordance with Article 25 of Council Framework Decision 2008/977/JHA;	deleted	(22) 'national supervisory authority' as regards law enforcement purposes means the supervisory authorities established in accordance with Article 25 of Council Framework Decision 2008/977/JHA;	Deletion Provisionally agreed
(23) 'national supervisory body' means the supervisory bodies established in accordance with Article 33 of Decision 2009/371/JHA;	deleted	(23) [];	
 (24) 'EES data' means all data stored in the Central System in accordance with Articles 13, 14, 15, 16, 17 and 18; 	 (24) 'EES data' means all data stored in the Central System in accordance with Articles 13, 14, 15, 16, 17 and 18; 	(24) 'EES data' means all data stored in the Central System in accordance with Articles 13, 14, 15, 16, 17 and 18;	

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



		(29) <u>'e-gate' means an</u>	
		infrastructure as defined in Article	
		<u>2(24) of Regulation (EU) 2016/399;</u>	
		(30) <u>'Failure To Enrol Rate (FTE)'</u>	Provisionally agreed text:
		means the proportion of registrations	(30) 'Failure To Enrol Rate (FTE)'
		with insufficient quality of the	means the proportion of registrations
		biometric enrolment;	with insufficient quality of the
			biometric enrolment;
		(31) 'False Positive Identification	Provisionally agreed text:
		Rate (FPIR) ' means the proportion	31) 'False Positive Identification
		of returned matches which do not	Rate (FPIR) ' means the proportion
		belong to the checked traveller;	of returned matches which do not
			belong to the checked traveller;
		(32) 'False Negative Identification	Provisionally agreed text:
		Rate (FNIR) ' means the proportion	32) 'False Negative Identification
		of missed matches during biometric	Rate (FNIR) ' means the proportion
		search although the traveller was	of missed matches during biometric
		registered with biometric data.	search although the traveller was
			registered with biometric data.
2. The terms defined in Article 2	2. The terms defined in Article 2	2. The terms defined in Article 2	Provisionally agreed text:
of Directive 95/46/EC shall have the	4 of Directive 95/46/EC Regulation	of Directive 95/46/EC shall have the	2. The terms defined in Article 4
same meaning in this Regulation in	(EU) 2016/679 shall have the same	same meaning in this Regulation in	of Regulation (EU) 2016/679 shall
so far as personal data are processed	meaning in this Regulation in so far	so far as personal data are processed	have the same meaning in this
by the authorities of Member States	as personal data are processed by the	by the authorities of Member States	Regulation in so far as personal data
for the purpose laid down in Article 5	authorities of Member States for the	for the purpose laid down in Article 5	are processed by the authorities of
of this Regulation.	purpose <i>purposes</i> laid down in	of this Regulation.	Member States for the purposes laid
	Article $5(1)$ of this Regulation.	6	down in Article 5(1) of this
			Regulation.
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3. The terms defined in Article 2	3. The terms defined in Article 3	3. The terms defined in Article 2	
of Framework Decision	of <i>Directive (EU) 2016/680</i> shall	of Framework Decision	
2008/977/JHA shall have the same	have the same meaning in this	2008/977/JHA shall have the same	
meaning in this Regulation in so far	Regulation in so far as personal data	meaning in this Regulation in so far	
as personal data are processed by the	are processed by the authorities of	as personal data are processed by the	
authorities of the Member States for	the Member States for law	authorities of the Member States for	
law enforcement purposes.	enforcement purposes laid down in	law enforcement purposes.	
	Article 5(1a) of this Regulation.		
		<u>Article 3a</u>	EP is reflecting.
		Borders at which the EES applies	
		and use of the EES at these borders	
		<u>1.</u> <u>The EES shall apply at the</u>	
		external borders of the Member	
		States.	
		2. <u>The Member States which</u>	
		apply the Schengen acquis in full	
		shall introduce the EES at their	
		internal borders with Member States	
		which do not yet apply the Schengen	
		acquis in full but operate the EES.	
		2a. The Member States which	
		apply the Schengen acquis in full and	
		the Member States which do not yet	
		apply the Schengen acquis in full but	
		operate the EES shall introduce the	
		EES at their internal borders with the	
		Member States which do not yet	
		apply the Schengen acquis in full and	
		do not operate the EES.	
		2b. Member States which do not	
		yet apply the Schengen acquis in full	
		but operate the EES shall introduce	
		the EES at their internal borders	



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		defined under Article 2(1) (b) and (c)	
		of Regulation (EU) 2016/399.	
		3. At the internal land borders	
		between two Member States which	
		do not yet apply the Schengen acquis	
		in full but operate the EES, those	
		Member States shall introduce the	
		EES without biometric	
		functionalities by derogation from	
		Art. 21(2) third and fourth	
		subparagraphs, as well as Art. 25. At	
		these internal borders, where the	
		third country national is not yet	
		registered into the EES, the	
		individual file shall be created	
		without recording biometric data.	
		Biometric data shall be added at the	
		next border crossing where the EES	
		is operated with the biometric	
		functionalities.	
Article 4	Article 4	Article 4	Provisionally agreed:
Set-up of the EES	Set-up Development and operational	Set-up of the EES	Article 4
	management of the EES		Set-up of the EES
The Agency for the operational	The Agency for the operational	[] 'eu-LISA' shall, in cooperation	EP insists
management of large-scale	management of large-scale	with Member States and in	- on the deletion of the reference to
information systems in the area of	information systems in the area of	accordance with Article 34, develop	MS and Art. 34 (because MS' role is
freedom, security and justice ('eu-	freedom, security and justice ('eu-	the EES and ensure its operational	clear in Art. 34). The Presidency
LISA') shall develop the EES and	LISA') shall develop the EES and	management, including the	suggests to come back to this when
ensure its operational management,	ensure its operational management,	functionalities for processing	discussing Art. 34(1). Keep Council
including the functionalities for	including the functionalities for	biometric data referred to in Article	text.
processing biometric data referred to	processing biometric data referred to	14(1)(f) and Article 15 (1) (b) and	Provisionally agreed:
in Article 14(1)(f) and Article 15.	in Article 14(1)(f) and Article 15, as	<u>(c).</u>	'eu-LISA' shall,[in cooperation with
	well as adequate security.		eu-LISA Shan, <u>In cooperation with</u>
	· · ·		J



			<u>Member States and in accordance</u> <u>with Article 34,]</u> develop the EES and ensure its operational management, including the functionalities for processing biometric data referred to in Article 14(1)(f) and Article 15 (1) (b) and (c), as well as adequate security.
Article 5	Article 5	Article 5	The Presidency suggests to accept
Purpose of the EES	Purpose Objectives of the EES	Purpose of the EES	<i>"objectives" <mark>Accepted by delegations</mark>.</i> Provisionally agreed Article 5 Objectives of the EES
By recording, storing and providing	<i>1.</i> By recording, storing and	By recording, storing and providing	The Presidency would like
access to Member States to the date,	providing access to Member States	access to Member States to the <u>data</u>	delegations' view on the
time and place of the entry and exit and refusals of entry of third country	<i>with access</i> to the date, time and place of the entry and exit and	recorded in the EES pursuant to Articles 14 to 18 [], the objectives	restructuring of the provision by the EP. Accepted by delegations.
nationals at external borders, the EES shall:	refusals of entry of third country nationals at external borders, the EES shall:	of EES shall <u>be</u> :	El . Accepteu by delegations.
(a) enhance the efficiency of	(a) enhance the efficiency of	(a) <u>to</u> enhance the efficiency of	
border checks by calculating and monitoring the duration of the	border checks by calculating and monitoring the duration of the	border checks by calculating and monitoring the duration of the	
authorised stay at entry and exit of	authorised stay at entry and exit of	authorised stay at entry and exit of	
third country nationals admitted for a	third country nationals admitted for a	third country nationals admitted for a	
short stay {or on the basis of a	short stay {or on the basis of a	short stay [or on the basis of a	
touring visa};	touring visa};	touring visa],	



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



(h) gather statistics on the entries and exits, refusals of entry and overstays of third country nationals to improve the assessment of the risk of overstays and to support evidence- based Union migration policy making;	(h) gather statistics on the entries and exits, refusals of entry and overstays of third country nationals to improve the assessment of the risk of overstays and to support evidence- based Union migration policy making;	 (h) to gather statistics on the entries and exits, refusals of entry and overstays of third country nationals to improve the assessment of the risk of overstays and to support evidence-based Union migration policy making; (ha) where relevant, to support Member States in operating their national facilitation programmes, including the examination and decision on applications; 	 Provisionally agreed: (h) to gather statistics on the entries and exits, refusals of entry and overstays of third country nationals to improve the assessment of the risk of overstays and to support evidence-based Union migration policy making; Provisionally agreed: (ha) where relevant, to support Member States in operating their national facilitation programmes, by: Enabling the national competent authorities referred to in Article 8e of Regulation (EU) 2016/399 to have access to information on previous short stays or refusals of entry for the purposes of the examination of applications for access to national facilitation
(i) combat identity fraud;	(i) combat identity fraud;	(i) <u>to combat identity fraud and</u>	access to national facilitation programmes and the adoption of decisions referred to in Article 23; - Notifying the border [check] authorities that access has been granted to the national facilitation programme. Provisionally agreed:
(1) compat identity fraud,	(1) combat identity fraud;	the misuse of travel documents;	 i) to combat identity fraud and the misuse of travel documents;
(j) contribute to the prevention, detection and investigation of terrorist offences or of other serious criminal offences;	deleted	(j) <u>to</u> contribute to the prevention, detection and investigation of terrorist offences or of other serious criminal offences;	





(k) enable identifying and apprehending terrorist, criminal suspects as well as of victims crossing the external borders;	deleted	(k) []	Provisionally agreed: deleted
(1) enable generating information on travel histories of terrorist, criminal suspects as well as of victims for investigations related to terrorism or serious crime.	deleted	(1) <u>to</u> enable generating information [] for investigations related to terrorism or <u>other</u> serious <u>criminal offences</u> , [] <u>including</u> <u>identification of perpetrators</u> , <u>suspects and victims of these</u> <u>offences</u> ;	
		(m) <u>to facilitate the examination of</u> <u>an application for international</u> <u>protection;</u>	To be discussed with Art. 25a
		(n) to facilitate the determination of the responsibility for asylum applications.	To be discussed with Art. 25b
	 1a. By granting access to law enforcement authorities in accordance with the conditions set out in this Regulation, the EES shall: (a) contribute to the prevention, detection and investigation of terrorist offences or of other serious criminal offences; (b) enable identifying and apprehending terrorist and criminal suspects as well as identifying victims crossing the external borders; (c) enable the generation of information on the travel histories 		



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



(b) a National Uniform Interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the connection of the Central System to the national border infrastructures in Member States;	(b) a National Uniform Interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the connection of the Central System to the national border infrastructures in Member States <i>in a</i> <i>secure manner</i> ;	(b) a National Uniform Interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the connection of the Central System to the national [] infrastructures in Member States <u>necessary for border checks.</u>	 Provisionally agreed: (b) a National Uniform Interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the connection of the Central System to the national border infrastructures in Member States in a secure manner;
(c) a Secure Communication Channel between the EES Central System and the VIS Central System;	(c) a Secure Communication Channel between the EES Central System and the VIS Central System;	(c) a Secure Communication Channel between the EES Central System and the VIS Central System;	
(d) a Communication Infrastructure between the Central System and the National Uniform Interfaces.	 (d) a secure and encrypted Communication Infrastructure between the Central System and the National Uniform Interfaces. (Horizontal change: wording to be applied throughout the text.) 	(d) a Communication Infrastructure between the Central System and the National Uniform Interfaces.	 Provisionally agreed: (d) a Communication Infrastructure which shall be secure and encrypted between the Central System and the National Uniform Interfaces.
			 <i>Provisionally agreed:</i> (e) the web service referred to in Article 12; (f) the central repository referred to in Article 57(2).
2. The EES Central System shall be hosted by eu-LISA in its two technical sites. It shall provide the functionalities laid down in this Regulation in accordance with the conditions of availability, quality and speed pursuant to Article 34(3).	2. The EES Central System shall be hosted by eu-LISA in its two technical sites. It shall provide the functionalities laid down in this Regulation in accordance with the conditions of availability, quality and speed pursuant to Article 34(3).	2. The EES Central System shall be hosted by eu-LISA in its [] technical sites. It shall provide the functionalities laid down in this Regulation in accordance with the conditions of availability, quality and speed pursuant to Article 34(3).	 Provisionally agreed: 2. The EES Central System shall be hosted by eu-LISA in its technical sites. It shall provide the functionalities laid down in this Regulation in accordance with the conditions of availability, quality and speed pursuant to Article 34(3).



3. Without prejudice to	3. Without prejudice to	3. Without prejudice to	Provisionally agreed:
Commission Decision	Commission Decision	Commission Decision	3. Without prejudice to
$2008/602/\text{EC}^{27}$, some hardware and	2008/602/EC ²⁷ , some hardware and	$2008/602/\text{EC}^{27}$, some hardware and	Commission Decision
software components of the	software components of the	software components of the	$2008/602/EC^{27}$, some hardware and
Communication Infrastructure of the	Communication Infrastructure of the	Communication Infrastructure of the	software components of the
EES shall be shared with the	EES shall be shared with the	EES shall be shared with the	Communication Infrastructure of the
communication infrastructure of the	communication infrastructure of the	communication infrastructure of the	EES shall be shared with the
VIS referred to in Article 1(2) of	VIS referred to in Article 1(2) of	VIS referred to in Article 1(2) of	communication infrastructure of the
Decision 2004/512/EC. A separate	Decision 2004/5/12/EC. A separate	Decision 2004/512/EC. [] <u>L</u> ogical	VIS referred to in Article 1(2) of
virtual private network dedicated to	virtual private network dedicated to	separation of VIS and EES data shall	Decision 2004/512/EC. Logical
the EES shall be established in	the EES shall be established in	be ensured.	separation of VIS and EES data shall
addition to the existing private virtual	addition to the existing private virtual		be ensured.
network of the VIS to ensure the	network of the VIS to ensure the		
logical separation of VIS and EES	logical separation of VIS and EES		
data.	Áata.		
Article 7	Article 7	Article 7	Article 7
Interoperability with the VIS	Interoperability with the VIS	Interoperability with the VIS	Interoperability with the VIS
1. eu-LISA shall establish a	1. eu-LISA shall establish a	1. eu-LISA shall establish a	Provisionally agreed:
Secure Communication Channel	Secure Communication Channel	Secure Communication Channel	(1) Eu-LISA shall establish a
between the EES Central System and	between the EES Central System and	between the EES Central System and	Secure Communication Channel
the VIS Central System to enable	the VIS Central System to enable	the VIS Central System to enable	between the EES Central System and
interoperability between the EES and	interoperability between the EES and	interoperability between the EES and	the VIS Central System to enable
the VIS. Direct consultation between	the VIS. Direct consultation between	the VIS. Direct consultation between	interoperability between the EES and
the systems shall only be possible if	the systems shall only be possible if	the systems shall only be possible if	the VIS. Direct consultation between
both this Regulation and Regulation	both this Regulation and Regulation	both this Regulation and Regulation	the systems shall only be possible if
(EC) No $767/2008^{28}$ provide for it.	(EC) No 767/2008 ²⁸ provide for it.	(EC) No 767/2008 ²⁸ provide for it.	both this Regulation and Regulation
			767/2008 provide for it. <i>Retrieval</i> ,
			importation and updating of visa

²⁷ Commission Decision 2008/602/EC of 17 June 2008 laying down the physical architecture and requirements of the national interfaces and of the communication infrastructure between the Central VIS and the national interfaces for the development phase (OJ L 194, 23.7.2008, p. 3).
 ²⁸ Pagulation (EC) No 767/2008 of the European Parliament and of the Council of 0 July 2008 concerning the Vise Information System (VIS) and

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

			related data directly from the VIS into the EES shall be an automated process once the operation in question is launched by the authority concerned.
2. The interoperability requirement shall enable the border authorities using the EES to consult the VIS from the EES in order to:	2. The interoperability requirement shall enable the border authorities using the EES to consult the VIS from the EES in order to:	2. The interoperability requirement shall enable the border <u>checks</u> authorities using the EES to consult the VIS from the EES in order to:	 Provisionally agreed: 2. The interoperability requirement shall enable the border authorities using the EES to consult the VIS from the EES in order to:
(a) retrieve and import the visa related data directly from the VIS in order to create or update the individual file of a visa holder in the EES in accordance with Article 13, 14 and 16 of this Regulation and Article 18a of Regulation (EC) No 767/2008;	 (a) retrieve and import the visa related data directly from the VI8 in order to create or update the individual file of a visa holder in the EES in accordance with Article 13, 14 and 16 of this Regulation and Article 18a of Regulation (EC) No 767/2008; 	 (a) retrieve and import <u>automatically</u> the visa related data directly from the VIS in order to create or update the <u>entry/exit record</u> <u>or the refusal of entry record [] of</u> a visa holder in the EES in accordance with Articles 13, 14 and 16 of this Regulation and Article 18a of Regulation (EC) No 767/2008; 	Provisionally agreed:(a) retrieve and importautomatically the visa related datadirectly from the VIS in order tocreate or update the entry/exit recordor the refusal of entry record of avisa holder in the EES in accordancewith Articles 13, 14 and 16 of thisRegulation and Article 18a ofRegulation (EC) No 767/2008;
(b) retrieve and import the visa related data directly from the VIS in order to update the EES in the event that a visa is annulled, revoked or extended in accordance with Article 17 of this Regulation and Articles 13, 14 and 18a of Regulation (EC) No 767/2008;	(b) retrieve and import the visa related data directly from the VIS in order to update the EES <i>record</i> in the event that a visa is annulled, revoked or extended in accordance with Article 17 of this Regulation and Articles 13, 14 and 18a of Regulation (EC) No 767/2008;	(b) retrieve and import <u>automatically</u> the visa related data directly from the VIS in order to update the <u>entry/exit record</u> [] in the event that a visa is annulled, revoked or extended in accordance with Article 17 of this Regulation and Articles 13, 14 and 18a of Regulation (EC) No 767/2008;	<i>Provisionally agreed</i> : (b) retrieve and import the visa related data directly from the VIS in order to update the <u>entry/exit record</u> in the event that a visa is annulled, revoked or extended in accordance with Article 17 of this Regulation and Articles 13, 14 and 18a of Regulation (EC) No 767/2008;
(c) verify the authenticity and validity of the visa or whether the conditions for entry to the territory of the Member States in accordance	(c) verify <i>at the external borders</i> the authenticity and validity of the visa or whether the conditions for entry to the territory of the Member	(c) verify <u>pursuant to Article 21 of</u> <u>this Regulation and Article 18(2) of</u> <u>Regulation (EC) No 767/2008</u> the authenticity and validity of the visa	 <i>Provisionally agreed:</i> (c) verify pursuant to Article 21 of this Regulation and Article 18(2) of Regulation (EC) No 767/2008 the



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



(a) examine visa applications and adopt decisions relating to those applications in accordance with Article 22 of this Regulation and Article 15(4) of Regulation (EC) No 767/2008;	(a) examine visa applications and adopt decisions relating to those applications in accordance with Article 22 of this Regulation and Article 15(4) of Regulation (EC) No 767/2008;	(a) <u>to</u> examine visa applications and adopt decisions relating to those applications in accordance with Article 22 of this Regulation and Article 15(4) of Regulation (EC) No 767/2008;	 Provisionally agreed: (a) to examine visa applications and adopt decisions relating to those applications in accordance with Article 22 of this Regulation and Article 15(4) of Regulation (EC) No 767/2008;
		(aa) for the Member States which do not yet apply Schengen acquis in full but operate the EES, to examine applications for a national short stay visa and to adopt decisions relating to those applications;	To revert to this when discussing the calculator.
(b) update the visa related data in the EES in the event that a visa is annulled, revoked or extended in accordance with Article 17 of this Regulation and Articles 13 and 14 of Regulation (EC) No 767/2008.	(b) update the visa related data in the EES in the event that a visa is annulled, revoked or extended in accordance with Article 17 of this Regulation and Articles 13 and 14 of Regulation (EC) No 767/2008.	(b) <u>to</u> update <u>automatically</u> the visa related data in the <u>entry/exit record</u> [] in the event that a visa is annulled, revoked or extended in accordance with Article 17 of this Regulation and Articles 13 and 14 of Regulation (EC) No 767/2008.	 Provisionally agreed: (b) to update the visa related data in the entry/exit record in the event that a visa is annulled, revoked or extended in accordance with Article 17 of this Regulation and Articles 13 and 14 of Regulation (EC) No 767/2008.
			Provisionally agreed: 4.For the operation of the EES Web service referred to in Article 12, the separate read-only database referred to in Article 12(2aa) of [Regulation establishing an Entry/Exit System (EES)] shall be on a daily basis updated by the VIS via a one-way extraction of the minimum necessary subset of VIS data.

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ANNEX	DG D 1 A	LIMITE	EN

Article 8	Article 8	Article 8	
Access to the EES for entering,	Access to the EES for entering,	Access to the EES for entering,	
amending, deleting and consulting	amending, deteting and consulting	amending, deleting and consulting	
data	data	data	
1. Access to the EES for entering,	1. Access to the EES for entering,	1. Access to the EES for entering,	
amending, deleting and consulting	amending, deleting and consulting	amending, deleting and consulting	
the data referred to in Articles 13, 14,	the data referred to in Articles 13 , 14,	the data referred to in Articles 13, 14,	
15, 16, 17 and 18 shall be reserved	15, 16, 17 and 18 shall be reserved	15, 16, 17 and 18 shall be reserved	
exclusively to duly authorised staff	exclusively to duly authorised staff	exclusively to duly authorised staff	
of the authorities of each Member	of the authorities of each Member	of the authorities of each Member	
State which are competent for the	State which are competent for the	State which are competent for the	
purposes laid down in Articles 21 to	purposes laid down in Articles 21 to	purposes laid down in Articles 21 to	
32. That access shall be limited to the	32. That access shall be limited to the	32. That access shall be limited to the	
extent needed for the performance of	extent needed for the performance of	extent needed for the performance of	
the tasks in accordance with this	the tasks in accordance with this	the tasks in accordance with this	
purpose, and proportionate to the	purpose, and proportionate to the	purpose, and proportionate to the	
objectives pursued.	objectives pursued.	objectives pursued.	
2. Each Member State shall	2. Each Member State shall	2. Each Member State shall	Provisionally agreed except text in []
designate the competent national	designate the competent national	designate the competent national	brackets:
authorities, including border, visa	authorities, including border, visa	authorities which shall be [] border	2. Each Member State shall
and immigration authorities. The	and immigration authorities. The	check, visa [], immigration, and	designate the competent national
duly authorised staff shall have	duly authorised staff shall have	determining authorities [as well as	authorities which shall be border,
access to the EES to enter, amend,	access to the EES to enter, amend,	the competent authorities referred to	visa immigration, [and determining
delete or consult data. Each Member	delete or consult data, Éach Member	in Article 35(1) of Regulation (EU)	authorities as well as the competent
State shall communicate a list of	State shall communicate a list of	604/2013 ^{28a}], for the purposes of this	authorities referred to in Article
these authorities to eu-LISA without	these authorities to eu-LISA without	<u>Regulation</u> . The duly authorised staff	35(1) of Regulation (EU)
delay. That list shall specify for	delay. That list shall specify for	shall have access to the EES to enter,	604/2013 ^{28a}], for the purposes of this
which purpose each authority shall	which purpose each authority shall	amend, delete or consult data. Each	Regulation. The duly authorised staff
· · · · ·		Member State shall communicate a	shall have access to the EES to enter,
have access to the data in the EES.	have access to the data in the EES.	Wiember State shan communicate a	,
have access to the data in the EES. Within three months after the EES	Within three months after the EES.	list of these authorities to eu-LISA	amend, delete or consult data. Each
Within three months after the EES	Within three months after the EES	list of these authorities to eu-LISA	amend, delete or consult data. Each



the Official Journal of the European	the Official Journal of the European	EES.	for which purpose each authority
Union. Where there are amendments	Union. Where there are amendments	Within three months after the EES	shall have access to the data in the
thereto, eu-LISA shall publish an	thereto, eu-LISA shall publish an	has started operations in accordance	EES.
updated consolidated list once a year.	updated consolidated list once a year.	with Article 60, a consolidated list of	
		those authorities shall be published in	The second sub-paragraph has been
		the Official Journal of the European	moved under Article 59 –
		Union. Where there are amendments	Notifications.
		thereto, eu-LISA shall publish an	
		updated consolidated list once a year.	

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

		3. The authorities which are	<i>EP to revert.</i>
		entitled to consult or access the data	
		stored in the EES in order to prevent,	
		detect and investigate terrorist	
		offences or other serious criminal	
		offences shall be designated in	
		accordance with the provisions of	
		Chapter IV.	
Article 9	Article 9	Article 9	
General principles	General principles	General principles	
1. Each competent authority	1. Each competent authority	1. Each competent authority	
authorised to access the EES shall	authorised to access the EES shall	authorised to access the EES shall	
ensure that the use of the EES is	ensure that the use of the EES is	ensure that the use of the EES is	
necessary, appropriate and	necessary, appropriate and	necessary, appropriate and	
proportionate.	proportionate.	proportionate.	



2. Each competent authority shall	2. Each competent authority shall	2. Each competent authority shall	Provisionally garand
1 2	1 2	1 5	Provisionally agreed :
ensure that in using the EES, it does	ensure that in using the EES, it does	ensure that in using the EES, it does	2. Each competent authority shall
not discriminate against third country	not discriminate against third country	not discriminate against third country	ensure that the use of the EES,
nationals on the grounds of sex,	nationals on the grounds of sex,	nationals on the grounds of sex,	including the capturing of biometric
racial or ethnic origin, religion or	racial or race, colour, ethnic or	racial or ethnic origin, religion or	data, shall be in accordance with
belief, disability, age or sexual	social origin, genetic features,	belief, disability, age or sexual	the safeguards laid down in the
orientation and that it fully respects	<i>language</i> , religion or belief, <i>political</i>	orientation and that it fully respects	Council of Europe's Convention
human dignity and the integrity of	or any other opinion, membership	human dignity and the integrity of	for the Protection of Human
the person. Particular attention shall	of a national minority, property,	the person. Particular attention shall	Rights and Fundamental Freedom,
be paid to the specific situation of	<i>birth</i> , disability, age or sexual	be paid to the specific situation of	in the Charter of Fundamental
children, the elderly and persons with	orientation and that it fully respects	children, the elderly and, persons	Rights of the European Union and
a disability. In particular, when	human dignity and the integrity of	with a disability. []	in the United Nations Convention
retaining a child's data, the best	the person. Particular attention shall	•	on the Rights of the Child.
interest of the child shall be a	be paid to the specific situation of		0
primary consideration.	children, the elderly and persons with		
1 5	a disability. In particular, when		
	retaining a child's data, the best		
	interest of the child shall be a		
	primary consideration.		
	2a. Border guards shall, when		Incorporated under article 9(2).
	capturing biometric data for the		meorporatea anaer article 7(2).
	EES, fully respect human dignity, in		
	particular in the event of difficulties		
	encountered in the capturing of		
	facial images or the taking of		
	fingerprints.		

Article 10	Article 10	Article 10	
Automated calculator and obligation	Automated calculator and obligation	Automated calculator and obligation	
to inform third country nationals on	to inform third country nationals on	to inform third country nationals on	
the remaining authorised stay	the remaining authorised stay	the remaining authorised stay	
1. The EES shall include an	1. The EES shall include an /	1. The EES shall include an	Provisionally agreed:
automated calculator that indicates	automated calculator that indicates /	automated calculator that indicates	1. The EES shall include an
the maximum authorised duration of	the maximum authorised duration ϕf	the maximum [] duration of	automated calculator that indicates
stay in accordance with Article $6(1)$	stay in accordance with Article $6(1)$	<u>authorised</u> stay, [] for third country	the maximum [] duration of
of Regulation (EU) 2016/399 for	of Regulation (EU) 2016/399 for	nationals registered in the EES. []	authorised stay, [] for third country
third country nationals registered in	third country nationals registered in	The calculator shall not apply to third	nationals registered in the EES. [].
the EES admitted for a short stay {or	the EES admitted for a short stay {or	country nationals who are []	
on the basis of a touring visa}.	on the basis of a touring visa $\}$.	members of the family of a Union	The calculator shall not apply to third
The calculator shall not apply to third	The calculator shall not apply to third	citizen to whom Directive	country nationals: who are []
country nationals who are family	country nationals who are family	2004/38/EC applies or of a national	members of the family of a Union
members of a Union citizen to whom	members of a Union citizen to whom	of a third country enjoying the right	citizen to whom Directive
Directive 2004/38/EC applies or of a	Directive 2004/38/EC applies or of a	of free movement under Union law	2004/38/EC applies or of a national
national of a third country enjoying	national of a third country enjoying	and who do not hold a residence card	of a third country enjoying the right
the right of free movement under	the right of free movement under	referred to under Directive	of free movement under Union law
Union law and who do not hold a	Union law and who do not hold a	2004/38/EC.	and who do not hold a residence card
residence card referred to under	residence card referred to under		referred to under Directive
Directive 2004/38/EC.	Directive 2004/38/EC.		2004/38/EC.
			i) who are family members of a
			Union citizen to whom Directive
			2004/38/EC applies or of a national
			of a third country enjoying the right
			of free movement equivalent to that
			of Union citizens under an agreement
			between the Union and its Member
			States on the one hand and a third
			country on the other; and
			ii) who do not hold a residence
	/		card referred to under Directive
	V		2004/38/EC or a residence permit



			pursuant to Regulation (EC) No 1030/2002.
2. The automated calculator shall:	2. The automated calculator shall:	2. The automated calculator shall	Provisionally agreed:
		inform the competent authorities:	2. The automated calculator shall
			inform the competent authorities:
(a) inform the competent	(a) inform the competent	a) [] <u>on entry</u> , of the <u>maximum</u>	Provisionally agreed
authorities of the authorised length of	authorities of the authorised length of	[] <u>duration of authorised</u> stay <u>of</u>	a) <u>on entry</u> , of the <u>maximum</u>
stay on entry and whether the	stay on entry and whether the	third country nationals [] and	duration of authorised stay of third
number of authorised entries of the	number of authorised entries of the	whether the number of authorised	country nationals and whether the
single or double entry visas have	single or double entry visas have	entries of short stay visa issued for	number of authorised entries of short
been previously used;	been previously used;	[] single or double entry [] have	stay visa issued for single or double
		been previously used	entry have been previously used
		(b) during checks or verifications	Provisionally agreed:
		carried out within the territory of the	(b) during checks or verifications
		Member States, of duration of	carried out within the territory of the
		remaining authorised stay or overstay	Member States, of duration of
		of the third country nationals;	remaining authorised stay or overstay
			of the third country nationals;
(b) identify third country nationals	(b) identify third country nationals	(c) [] upon exit, of any overstay	Provisionally agreed:
upon exit who have overstayed.	upon exit who have overstayed.	of third country nationals [];	(c) upon exit, of any overstay of
			third country nationals;
		(d) when examining and deciding	Provisionally agreed:
		on visa applications, of the maximum	(d) when examining and deciding
		remaining duration of authorised stay	on visa applications, of the maximum
		based on intended entry dates.	remaining duration of authorised stay
			based on intended entry dates.
3. The border authorities shall	3. The border authorities shall	3. [] <u>Any third country national</u>	EP were not convinced that it should
inform the third country national of	inform the third country national of	shall have the right to ask border	be the TCN who asks about his/her
the maximum number of days of	the maximum number of days of	check authorities during border	maximum remaining no. of days.
authorised stay which shall take into	authorised stay which shall take into	checks at entry about the maximum	TCN might not know that s/he could
account the number of entries and the	account the number of entries and the	remaining number of days of his/her	ask the border check authority.
length of stay authorised by the visa	length of stay authorised by the visa	authorized stay, which shall take into	EP suggested the idea of having a
{or the touring visa}, in accordance	{or the touring visa}, in accordance	account the number of entries and the	21 suggested the fact of having a



with Article 8(9) of Regulation (EU) 2016/399.	with Article 8(9) of Regulation (EU) 2016/399.	length of stay authorised by the visa {or the touring visa}, [] <u>and be</u> <u>provided with such information by</u> <u>the border check authorities on that</u> <u>occasion.</u>	kiosk which could provide the max remaining No. of days and if not, the obligation is on the border guard. LIBE compromise proposal: 3. The border authorities shall inform the third country national of the maximum number of days of authorised stay which shall take into account the number of entries and the length of stay authorised by the visa {or the touring visa}, in accordance with Article 8(9) of Regulation (EU) 2016/399. <u>The information may be</u> <u>provided either by the border guard</u> <u>at the moment of the border check</u> <u>or by means of a self-service kiosk</u> <u>installed at the border crossing point</u> <u>behind the location in which the</u> <u>border check is made.</u>
4. Stays in Member States which	deleted	4. [] With regard to third	EP deleted para 4 because it is a
are not yet fully applying the		country nationals subject to visa	political vision to not have internal
Schengen <i>acquis</i> in accordance with		requirement, staying on the basis of a	border controls.
their respective Acts of Accession		visa ^{28b} or a national short stay visa,	
shall not be taken into account in the calculation of the duration of the		in the Member States which do not	
authorised stay in the Schengen area.		yet apply the Schengen acquis in full but operate the EES, the calculator	
Those Member States shall register		shall not indicate the authorised stay	
the stays of third country nationals in		based on the visa or the national	
the EES. The automated calculator in		short visa. In this case the calculator	
the system shall not however		shall only verify compliance with the	
compute stays in Member States		overall limit of 90 days in any 180-	
which are not yet fully applying the		day period and with the period of	



Schengen <i>acquis</i> as part of the authorised length of stay.	validity of the visa.	
	5.The automated calculator shall apply also for short stays based on a visa with limited territorial validity issued on the basis of Article 25(1)(b) of Regulation (EC) No 810/2009. In this case, the calculator shall take into account the authorised stay as defined by such visa, irrespective of whether his/her cumulative stay exceeds 90 days within any 180-days.	Provisionally agreed:5.The automated calculator shall apply also for short stays based on a visa with limited territorial validity issued on the basis of Article 25(1)(b) of Regulation (EC) No 810/2009. In this case, the calculator shall take into account the authorised stay as defined by such visa, irrespective of whether his/her cumulative stay exceeds 90 days within any 180-days.

28b Decision No 565/2014/EU of the European Parliament and of the Council of 15 May 2014 introducing a simplified regime for the control of persons at the external borders based on the unilateral recognition by Bulgaria, Croatia, Cyprus and Romania of certain documents as equivalent to their national visas for transit through or intended stays on their territories not exceeding 90 days in any 180-day period and repealing Decisions No 895/2006/EC and No 582/2008/EC.

Article 11	Article 11	Article 11	
Information mechanism	Information mechanism	Information mechanism	
1. The EES shall include a	1. The EES shall include a	1. The EES shall include a	Provisionally agreed:
mechanism that shall automatically	mechanism that shall automatically	mechanism that shall automatically	1. The EES shall include a
identify which entry/exit records do	identify which entry/exit records do	identify which entry/exit records do	mechanism that shall automatically
not have exit data immediately	not have exit data immediately	not have exit data immediately	identify which entry/exit records do
following the date of expiry of the	following the date of expiry of the	following the date of expiry of the	not have exit data immediately
authorised length of stay and identify	authorised length of stay and identify	authorised [] stay and identify	following the date of expiry of the
records for which the maximum stay	records for which the maximum	records for which the maximum	authorised stay and identify records
allowance has been exceeded.	authorised stay allowance has been	authorised stay [] was exceeded.	for which the maximum authorised
	exceeded.		stay <u>was</u> exceeded.

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ANNEX



		<u>1a.</u> For the third country nationals	Provisionally agreed.
		who perform their border crossing on	<u>1a.</u> For the third country nationals
		the basis of valid Facilitated Transit	who perform their border crossing on
		Document (FTD) issued in	the basis of valid Facilitated Transit
		accordance with Regulation (EC)	Document (FTD) issued in
		693/2003, the EES shall include a	accordance with Regulation (EC)
		mechanism that shall automatically	693/2003, the EES shall include a
		identify which entry/exit records do	mechanism that shall automatically
		not have exit data immediately	identify which entry/exit records do
		following the time of expiry of the	not have exit data immediately
		duration of authorised stay and	following the time of expiry of the
		identify records for which the	duration of authorised stay and
		maximum period of authorised stay	identify records for which the
		allowance has been exceeded.	maximum period of authorised stay
			allowance has been exceeded.
2. A list generated by the system	2. A list generated by the system	2. A list generated by the system	Provisionally agreed:
containing the data referred to in	containing the data referred to in	containing the data referred to in	A list generated by the system
Article 14 and 15 of all identified	Article 14 and 15 of all identified	Article 14 and 15 of all identified	containing the data referred to in
overstayers shall be available to the	overstayers shall be available to the	overstayers shall be available to the	Article 14 and 15 of all identified
designated competent national	designated competent national	designated competent national	overstayers shall be available to the
authorities.	authorities.	authorities according to Article 8(2)	designated competent national
		in order for them to adopt the	authorities according to Article 8(2)
		appropriate measures including to	in order for them to adopt
		detect the overstayer and where	appropriate measures.
		possible and applicable contributing	
		to the return of the overstayer.	
	2a. In accordance with Article 31,		EP withdrew its amendment.
	Member States shall be		
	automatically informed three		
	months in advance of the scheduled		
	deletion of data on overstayers in		
	order for them to adopt the		
	appropriate measures.		



Article 12	Article 12	Article 12	
Web service	Web service	Web service	
<u>1.</u> In order to enable third	1. In order to enable third country	1. In order to enable third	Provisionally agreed:
country nationals to verify at any	nationals to verify at any moment the	country nationals to verify at any	-1. In order to enable third country
moment the remaining authorised	remaining authorised length of stay,	moment the remaining []	nationals to verify at any moment the
length of stay, a secure internet	a secure internet access to a web	maximum number of days of	remaining authorised length of stay,
access to a web service hosted by	service hosted by eu-LISA in its two	authorised stay, a secure internet	a secure internet access to a web
eu-LISA in its two technical sites	technical sites shall allow those third	access to a web service hosted by	service hosted by eu-LISA in its two
shall allow those third country	country nationals to provide the data	eu-LISA in its-[] technical sites	technical sites shall allow those third
nationals to provide the data	required pursuant to Article 14(1)(b)	shall allow those third country	country nationals to provide the data
required pursuant to Article	together with the anticipated entry	nationals to provide the type,	required pursuant to Article 14(1)(b)
<u>14(1)(b)</u> together with the	and exit dates. On that basis, the web	number and three letter code of	together with the anticipated entry
anticipated entry and exit dates.	service shall provide them with an	the issuing country of the travel	and exit dates. On that basis, the web
On that basis, the web service shall	OK/NOT OK answer. The web	<u>document [] together with the</u>	service shall provide them with an
provide them with an OK/NOT	service shall use a separate read-only	anticipated entry and exit dates or	OK/NOT OK answer. The web
OK answer. The web service shall	database updated on a daily basis via	for third country nationals who are	service shall use a separate read-only
use a separate read-only database	a one-way extraction of the minimum	within the territory of the Member	database updated on a daily basis via
updated on a daily basis via a one-	necessary subset of EES data. eu-	States, the intended exit date. On	a one-way extraction of the
way extraction of the minimum	LISA shall be the controller	that basis, the web service shall	minimum necessary subset of EES
necessary subset of EES data.	responsible for the security of the	provide them with an OK/NOT	data.
	web service, for the security of the	OK answer, including information	
	personal data it contains and the	on the maximum remaining number	
	process to extract the personal data	of days of authorised stay. The web	
	from the central system into the web	service shall use a separate read-	
	service. eu-LISA shall perform an	only database updated on a daily	
	information security risk assessment	basis via a one-way extraction of	
	in order to define the specific	the minimum necessary subset of	
	security needs of the web service.	EES data.	
2. Carriers may use the secure	2. Carriers may use the secure	2. Carriers may use [] the	Provisionally agreed:
internet access to the web service	internet access to the web service	web service referred to in	2. In view of fulfilling their
referred to in paragraph 1 to	referred to in paragraph 1 to verify	paragraph 1 to verify whether or	obligations under Article 26(1)(b) of
verify whether or not third country	whether or not third country	not third country nationals holding	the Convention implementing the
nationals holding a single or	nationals holding a single or double	a short stay visa issued for single	Schengen Agreement, carriers shall

double ontre vice barre alura d	anter vice here also de la constat	an dauble antique [] harres aleres]	was the Web Comiss of from 14.
double entry visa have already	entry visa have already used the visa.	or double entry [] have already	use the Web Service referred to in
used the visa. The carrier shall	The carrier shall provide the data	used the short stay visa. The	paragraph 2aa to verify whether or
provide the data listed in Article	listed in Article 14(1)(d). The web	carrier shall provide the data	not third country nationals holding a
14(1)(d). The web service shall on	service shall on that basis provide the	contained in the Machine Readable	single or double entry visa have
that basis provide the carriers with	carriers with an OK/NOT OK	Zone of the travel document [].	already used the number of entries
an OK/NOT OK answer. Carriers	answer. Carriers shall establish an	The web service shall on that basis	authorised by their visa. The carrier
may store the information sent and	authentication scheme to ensure	provide the carriers with an	shall provide the data listed under
the answer received.	that only authorised staff may	OK/NOT OK answer. Carriers	Article 14(1)(a), (b) and (c). The web
	access the web service. Carriers may	may store the information sent and	service shall on that basis provide the
	store the information sent and the	the answer received. The OK/NOT	carriers with an OK/NOT OK
	answer received for a maximum of	OK answer cannot be regarded as	answer. Carriers may store the
	48 hours, following which the data	a decision to authorise or refuse	information sent and the answer
	shall be automatically deleted, for	entry in accordance with	received in accordance to the
	the sole purpose of informing the	Regulation (EU) 2016/399.	applicable law. Carriers shall
	third country nationals concerned.		establish an authentication scheme to
			ensure that only authorised staff may
			access the web service. The
			OK/NOT OK answer cannot be
			regarded as a decision to authorise or
			refuse entry in accordance with
			Regulation (EU) 2016/399.
			2a. For the purpose of
			implementing Article 26(2) of the
			Convention implementing the
			Schengen Agreement and/ or for the
			purpose of resolving any potential
			dispute arising from Article 26 of the
			Convention implementing the
			1 0
			Schengen Agreement, eu-LISA shall
			keep logs of all data processing
			operations carried out within the
			website by the carriers. Those logs
			shall show the date and time of each



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

CHAPTER II	CHAPTER II	CHAPTER II	
Entry and use of data by border	Entry and use of data by border	Entry and use of data by <u>competent</u>	
authorities	authorities	[] authorities	
Article 13	Article 13	Article 13	
Procedures for entering data in the	Procedures for entering data in the	Procedures for entering data in the	
EES	EES	EES	
1. Border authorities shall verify,	1. Border authorities shall verify,	1. Border <u>check</u> authorities shall	Provisionally agreed:
in accordance with Article 21,	in accordance with Article 21,	verify, in accordance with Article 21,	1. Border authorities shall verify,
whether a previous individual file has	whether a previous individual file has	whether a previous individual file has	in accordance with Article 21,
been created in the EES for the third	been created in the EES for the third	been created in the EES for the third	whether a previous individual file has
country national as well as their	country national as well as their	country national as well as []	been created in the EES for the third
identity. Where a third country	identity. Where a third country	his/her identity. Where a third	country national as well as his/her
national uses a self-service system	national uses a self-service system	country national uses a self-service	identity. Where a third country
for pre-enrolment of data or for the	for pre-enrolment of data or for the	system for pre-enrolment of data or	national uses a self-service system
performance of border checks	performance of border checks	for the performance of border checks	for pre-enrolment of data or for the
[should this self-service system not	[should this self-service system not	[], a verification may be carried	performance of border checks a
be defined or explained?], a	be defined or explained?], a	out through the self service system.	verification may be carried out
verification may be carried out	verification may be carried out		through the self service system.
through the self service system.	through the self service system.		
2. Where a previous individual	2. Where a previous individual	2. Where a previous individual	Provisionally agreed:
file has been created, the border	file has been created, the border	file has been created, the border	2. Where a previous individual
authority shall, if necessary,	authority shall, if necessary, update	check authority shall, if necessary,	file has been created, the border
update the individual file data,	the individual file data, enter an	<u>update the individual file data,</u>	authority shall, if necessary,
enter an entry/exit record for each	entry/exit record for each entry and	referred to in Articles 14, 15 and	update the individual file data,
entry and exit in accordance with	exit in accordance with Articles 14	<u>16 as applicable,</u> enter an entry []	referred to in Articles 14, 15 and
Articles 14 and 15 or, where	and 15 or, where applicable, a refusal	or exit record for each entry and	<u>16 as applicable,</u> enter an entry <u>or</u>
applicable, a refusal of entry	of entry record in accordance with	exit in accordance with Articles 14	exit record for each entry and exit
record in accordance with Article	Article 16. That record shall be	and 15 or, where applicable, a	in accordance with Articles 14 and
16. That record shall be linked to	linked to the individual file of the	<u>refusal of entry record in</u>	15 or, where applicable, a refusal
the individual file of the third	third country national concerned.	accordance with Article 16. That	of entry record in accordance with
<u>country national concerned.</u> Where	Where applicable, the data referred	record shall be linked to the	Article 16. That record shall be
applicable, the data referred to in	to in Article 17(1) shall be added to	individual file of the third country	linked to the individual file of the
Article 17(1) shall be added to the	the individual file and the data	national concerned. Where	third country national concerned.

individual file and the data referred to in Article 17(3) and (4) shall be added to the entry/exit record of the third country national concerned. The different travel documents and	referred to in Article 17(3) and (4) shall be added to the entry/exit record of the third country national concerned. The different travel documents and identities used	applicable, the data referred to in Article 17(1). (1a), [] (3) and (4) shall be added to the entry/exit record of the third country national concerned. The different travel	Where applicable, the data referred to in Article $17(1)$, [(1a)], (3) and (4) shall be added to the entry/exit record of the third country national concerned. The different travel
identities used legitimately by a third country national shall be added to the third country national's individual file. <u>Where a previous file has been</u>	legitimately by a third country national shall be added to the third country national's individual file. Where a previous file has been registered and the third country	documents and identities used legitimately by a third country national shall be added to the third country national's individual file. Where a previous individual file	documents and identities used legitimately by a third country national shall be added to the third country national's individual file. Where a previous file has been
registered and the third country national presents a travel document which differs from the one which was previously registered, the data refered under Article 14(1)(f) shall also be updated if the facial image reccorded in the chip of the new travel document can be extracted electronically.	national presents a <i>valid</i> travel document which differs from the one which was previously registered, the data referred under <i>referred to in</i> Article 14(1)(f) shall also be updated if the facial image recorded <i>recorded</i> in the chip of the new travel document can be extracted electronically.	<u>has been registered and the third</u> <u>country national presents a travel</u> <u>document which differs from the</u> <u>one which was previously</u> <u>registered, the data referred under</u> <u>Article 14(1)(f) and Article 15(1)</u> (b) shall also be updated [].	registered and the third country national presents a <i>valid</i> travel document which differs from the one which was previously registered [] <i>EP to revert back on the deletion of</i> <i>the last part of the paragraph. EP</i> <i>were not convinced that it is more</i> <i>secure to update the file by taking a</i> <i>live facial image rather than taking</i>
3. Where it is necessary to create or update the individual file data of a visa holder, the border authorities may retrieve and import the data provided for in Article 14(1) (d), (e) and (g) directly from the VIS in accordance with Article 18a of Regulation (EC) No 767/2008.	3. Where it is necessary to create or update the individual file data of a visa holder, the border authorities may retrieve and import the data provided for in Article 14(1) (d) , (e) and to (g) directly from the VIS in accordance with Article 18a of Regulation (EC) No 767/2008.	3. Where it is necessary to [] enter or update the [] entry/exit record data of a visa holder, the border check authorities may retrieve and import the data provided for in Article 14([]2) (c), (d), (e), (f) and [g] directly from the VIS in accordance with Article 7 of this Regulation and Article 18a of Regulation (EC) No 767/2008.	the image from the chip. Provisionally agreed: The reference to " article 7 of this Regulation.". EP to revert back on its proposal: by including Ar 14(1)(f), the facial image could be retrieved and imported from VIS.



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

the verification referred to in	the verification referred to in	the verification referred to in	
paragraph 1 of this Article shall be	paragraph 1 of this Article shall be	paragraph 1 of this Article shall be	
carried out through the self service	carried out through the self service	carried out through the self service	
system.	system.	system.	
7. Where a third country national	7. Where a third country national	7. Where a third country national	
uses an e-gate for crossing the	uses an e-gate for crossing the	uses an e-gate for crossing the	
external border, Article 8d of	external border, Article 8d of	external border, Article 8d of	
Regulation (EU) 2016/399 shall	Regulation (EU) 2016/399 shall	Regulation (EU) 2016/399 shall	
apply. In that case, the corresponding	apply. In that case, the corresponding	apply. In that case, the corresponding	
registration of the entry/exit record	registration of the entry/exit record	registration of the entry/exit record	
and the linking of that record to the	and the linking of that record to the	and the linking of that record to the	
concerned individual file shall be	concerned individual file shall be	concerned individual file shall be	
carried out through the e-gate.	earried out through the e-gate.	carried out through the e-gate.	
8. Where it is necessary to create	8. Where it is necessary to create	8. Where it is necessary to create	EP to revert back on Council text
an individual file or to update the	an individual file or to update the	an individual file or to update the	where first, the facial image should
facial image referred to in Article	facial image referred to in Article	facial image referred to in Article	be take live. EP were not convinced
14(1)(f), the facial image can only be	14(1)(f), the facial image can only be	14(1)(f) and Article $15(1)(b)$, the	that it is more secure to update the
extracted electronically from the	extracted electronically from the	facial image shall be taken live and	file by taking a live facial image
electronic Machine Readable Travel	electronic Machine Readable Travel	where this is not possible []	rather than taking the image from the
Documents (eMRTD) and inserted	Documents (eMRTD) and inserted	extracted electronically from the	chip.
into the individual file where it has	into the individual file where it has	electronic Machine Readable Travel	Provisionally agreed:
been verified that the facial image	been verified that the facial image	Documents (eMRTD) and inserted	" extracted electronically from the
recorded in the chip of the eMRTD	recorded in the chip of the eMRTD	into the individual file <u>after</u>	electronic Machine Readable Travel
corresponds to the live facial image	corresponds to the live facial image	electronic verification [] that the	Documents (eMRTD) and inserted
of the concerned third country	of the concerned third country	facial image recorded in the chip of	into the individual file <u>after</u>
national.	national.	the eMRTD corresponds to the live	electronic verification that the facial
		facial image of the concerned third	image recorded in the chip of the
		country national.	eMRTD corresponds to the live
			facial image of the concerned third
			country national."

<u>9.</u> <u>Without prejudice to Article 18</u>	Concerns were raised of the added
of this Regulation and Article 12(3)	value of this paragraph because the
of Regulation (EU) 2016/399, if the	competent authorities would only
authorised stay of a third country	create the individual file if the TCN
national who is present on the	makes him/herself known to the
territory of a Member State starts	authorities. In other words, unless
directly after the stay based on	the TCN alerts the authorities that
residence permit or long-stay visa	his stay is not based any longer on
and no individual file has been	the residence permit or long stay
created, the competent authorities	visa, the authorities would not know.
according to Article 8(2) may create	Also, by referring to 'competent
an individual file and the entry/exit	authorities' this text would allow
record by entering the data referred	immigration authorities to create the
to in Articles 14(1), (2) and (6) and	individual file. This is not catered for
15(1). Instead of the data referred to	in the rest of the text as these
in Article 14(2)(a), they shall insert	authorities are only able to consult
the date of start of the authorised stay	the individual file. It is only the
and, instead of the data in Article	border authorities that can amend/
14(2)(b), they shall insert the	update the file. As a consequence of
authority that authorised the	the Council text, immigration
authorised stay.	authorities would have to be
	equipped with the necessary
	equipment in order for them to be
	able to carry out the necessary
	enrolment of the third country
	national into the EES, which entails
	more costs.
	Presidency urges the delegations to
	delete this paragraph.

Article 14	Article 14	Article 14	Provisionally agreed
Personal data for visa holders	Personal data for <i>third country</i>	Personal data for [] <u>third country</u>	Article 14
	<i>nationals subject to a</i> visa holders	national subject to a visa	Personal data for third country
	requirement to cross the external	<u>requirement</u>	national subject to a visa requirement
	borders		
1. The border authority shall	1. The border authority shall	1. <u>At the borders at which the</u>	Provisionally agreed with Council
create the individual file of the visa	create the individual file of the visa	EES is operated the border checks	<mark>structure of Art 14 on individual file</mark>
holding third country national by	holding third country national third	authority shall create the individual	and entry/exit record
entering the following data:	country national subject to a visa	file of the [] third country national	
	requirement to cross the external	subject to a visa requirement by	
	<i>borders</i> by entering the following	entering the following data:	
	data:		
(a) surname (family name); first	a) surname (family name); first	(a) surname (family name); first	
name(s) (given names); date of birth;	name(s) (given names); date of birth;	name(s) (given names); date of birth;	
nationality or nationalities; sex;	nationality or nationalities; sex;	nationality or nationalities; sex;	
(b) type, number and three letter	(b) type <i>and</i> number <i>of the travel</i>	(b) type, number and three letter	Provisionally agreed:
code of the issuing country of the	document or documents and three	code of the issuing country of the	(b) type <i>and</i> number <i>of the travel</i>
travel document or documents;	letter code of the issuing country of	travel document or documents;	<i>document or documents</i> and three
	the travel document or documents;		letter code of the issuing country of
(a) the data of every of the	(a) the data of avaims of the	(a) the data of annimulat the	the travel document or documents
(c) the date of expiry of the	(c) the date of expiry of the	(c) the date of expiry of the	
validity of the travel document(s);	validity of the travel document(s);	validity of the travel document(s);	Deletion and it is all a second to
(d) the short stay visa sticker	(d) the short stay visa sticker	(d) []	Deletion provisionally agreed:
number, including the three letter code of the issuing Member State,	number, including the three letter code of the issuing Member State,		
the type of visa, the date of end of	the type of visa, the date of end of		
maximum duration of the stay as	maximum duration of the stay as		
authorised by the visa which needs to	authorised by the visa which needs to		
be updated at each entry and the date	be updated at each entry and the date		
of expiry of the validity of the visa, if	of expiry of the validity of the visa, if		
applicable;	applicable;		
application,	pappineuole,		



 (e) at the first entry on the basis of the short stay visa, the number of entries and the authorised period of stay as indicated on the visa sticker; (f) the facial image, where possible extracted electronically from the eMRTD, and where this is not possible, taken live; 	 (e) at the first entry on the basis of the short stay visa, the number of entries and the authorised period of stay as indicated on the visa sticker; (f) the facial image with sufficient image resolution and quality to be used in automated biometric matching, where possible extracted electronically from the eMRTD or the VIS, and where this is not possible, taken live; 	 (e) [] (f) the facial image, where possible <u>taken live</u> [], and where this is not possible, [] <u>extracted</u> <u>electronically from the eMRTD;</u> 	Deletion Provisionally agreed: EP to revert back on Council text. EP were not convinced that it is more secure to update the file by taking a live facial image rather than taking the image from the chip.
 (g) the visa sticker number of the touring visa, the type of visa and the date of expiry of the validity of the visa, if applicable. 2. On each entry of the visa holding third country national, the following data shall be entered in an entry/exit record. That record shall be linked to the individual file of that third country national using the individual reference number created by the EES upon creation of that file: 	 (g) the visa sticker number of the touring visa, the type of visa and the date of expiry of the validity of the visa, if applicable. 2. On each entry of the visa holding third country national subject to a visa requirement to cross the external borders, the following data shall be entered in an entry/exit record .That record which shall be linked to the individual file of that third country national using the individual reference number created by the EES upon creation of that file: 	(g) [] 2. On each entry of [] <u>a third</u> <u>country national subject to a visa</u> <u>requirement, at a border at which the</u> <u>EES is operated, the following data</u> shall be entered in an entry/exit record. That record shall be linked to the individual file of that third country national using the individual reference number created by the EES upon creation of that file:	Deletion Provisionally agreed:References to "borders at which theEES is operated" throughout the textwill be tackled when discussing theissue of territoriality.Provisionally agreed:2. On each entry of a thirdcountry national subject to a visarequirement, [at a border at which theEES is operated,] the following datashall be entered in an entry/exitrecord. That record shall be linked tothe individual file of that thirdcountry national using the individualreference number created by the EESupon creation of that file:



(a) date and time of the entry;	(a) date and time of the entry;	(a) date and time of the entry;	
(b) the border crossing point and	(b) the border crossing point and	(b) the border crossing point and	
authority that authorised the entry;	authority that authorised the entry;	authority that authorised the entry;	
		(c) if applicable, the status of the	Commission proposal:
		person indicating that it is a third	(c) if applicable, the status of the
		country national who is member of	person indicating that it is a third
		family of a Union citizen to whom	country national who: is member of
		Directive 2004/38/EC applies or a	family of a Union citizen to whom
		national of a third country enjoying	Directive 2004/38/EC applies or a
		the right of free movement under	national of a third country enjoying
		Union law and who do not hold a	the right of free movement under
		residence card referred to under	Union law and who do not hold a
		Directive 2004/38/EC.	residence card referred to under
			Directive 2004/38/EC.
			i) who is family member of a
			Union citizen to whom Directive
			2004/38/EC applies or of a national
			of a third country enjoying the right
			of free movement equivalent to that
			of Union citizens under an agreement
			between the Union and its Member
			States on the one hand and a third
			country on the other; and
			ii) who do not hold a residence
			card referred to under Directive
			2004/38/EC or a residence permit
			pursuant to Regulation (EC) No
			1030/2002.
		(d) the short stay visa sticker	Provisionally agreed
		number, including the three letter	(d) the short stay visa sticker
		code of the issuing Member State,	number, including the three letter
		the type of short stay visa, the date of	code of the issuing Member State,
		end of maximum duration of the stay	the type of short stay visa, the date of

			· · · · · · · · · · · · · · · · · · ·
		as authorised by the short stay visa	end of maximum duration of the stay
		which needs to be updated at each	as authorised by the short stay visa
		entry and the date of expiry of the	which needs to be updated at each
		validity of the short stay visa, if	entry and the date of expiry of the
		applicable;	validity of the short stay visa, if
			applicable;
		(e) at the first entry on the basis of	Provisionally agreed
		the short stay visa, the number of	(e) at the first entry on the basis of
		entries and the duration of stay as	the short stay visa, the number of
		authorised by the short stay visa as	entries and the duration of stay as
		indicated on the short stay visa	authorised by the short stay visa as
		sticker;	indicated on the short stay visa
		,	sticker;
		(f) if applicable, the information	Provisionally agreed
		indicating that the visa has been	(\underline{f}) if applicable, the information
		issued with limited territorial	indicating that the visa has been
		validity, on the basis of Article	issued with limited territorial
		25(1)(b) of the Regulation (EC)	validity, on the basis of Article
		810/2009;	25(1)(b) of the Regulation (EC)
		010/2007;	810/2009;
		(g) [the touring visa sticker	Provisionally agreed
		number of the touring visa, the type	(g) [the touring visa sticker]
		of touring visa and the date of expiry	number of the touring visa sucker
		of the validity of the touring visa, if	of touring visa and the date of expiry
		applicable.]	of the validity of the touring visa, if
			applicable.]
3. On each exit, the following	3. On each exit, the following	3. On each exit, at a border at	
, O	,	·	Provisionally agreed except text in []
data shall be entered in the entry/exit	data shall be entered in the entry/exit	which the EES is operated the	brackets:
record linked to the individual file of	record linked to the individual file of	following data shall be entered in the	3. On each exit, [at a border at
that visa holding third country	that visa holding third country	entry/exit record linked to the	which the EES is operated] the
national:	national:	individual file of that [] third	following data shall be entered in the
		country national subject to a visa	entry/exit record linked to the
		requirement:	individual file of that third country



			national subject to a visa
			requirement:
(a) date and time of the exit;	(a) date and time of the exit;	(a) date and time of the exit;	
(b) the border crossing point of the	(b) the border crossing point of the	(b) the border crossing point of the	
exit.	exit.	exit.	
		(c) Where a third country national	Provisionally agreed
		subject to a visa requirement uses a	(c) Where a third country national
		different visa than the visa recorded	subject to a visa requirement uses a
		in the last entry record, the data of	different visa than the visa recorded
		the entry/exit record listed in	in the last entry record, the data of
		paragraph 2(d), (e), (f) and [(g)] shall	the entry/exit record listed in
		be updated accordingly.	paragraph 2(d), (e), (f) and [(g)] shall
			be updated accordingly.
4. Where there is no exit data	4. Where there is no exit data	4. Where there is no exit data	Provisionally agreed :
immediately following the date of	immediately following the date of	immediately following the date of	4. Where there is no exit data
expiry of the authorised length of	expiry of the <i>duration of</i> authorised	expiry of the authorised [] stay, the	immediately following the date of
stay, the entry/exit record shall be	length of stay, the entry/exit record	entry/exit record shall be identified	expiry of the authorised stay, the
identified with a mark or flag by the	shall be identified with a mark or flag	with a mark or flag by the system	entry/exit record shall be identified
system and the data of the visa	by the system and the data of the visa	and the data of the [] third country	with a mark or flag by the system
holding third country national	holding third country national	national subject to a visa requirement	and the data of the third country
identified as an overstayer shall be	identified as an overstayer shall be	is identified as an overstayer shall be	national subject to a visa requirement
entered into the list referred to in	entered into the list referred to in	entered into the list referred to in	is identified as an overstayer shall be
Article 11.	Article 11.	Article 11.	entered into the list referred to in
			Article 11.
5. In order to create the individual	5. In order to create <i>or update the</i>	5. In order to [] <u>enter or update</u>	EP to revert back
file of a visa holding third country	entry/exit record on the individual	the [] <u>entry/exit record</u> of a []	
national the data provided for in	file of a visa holding third country	third country national subject to a	
paragraph 1 (d), (e) and (g) may be	national third country national	<u>visa requirement</u> the data provided	
retrieved and imported directly from	subject to a visa requirement to	for in paragraph 2 (c), (d), (e), (f) and	
the VIS by the border authority in	cross the external borders the data	[(g)] may be retrieved and imported	
accordance with Article 18a of	provided for in paragraph 1 (d) , (e)	<u>automatically</u> [] from the VIS by	
Regulation (EC) No 767/2008	and to (g) may be retrieved and	the border <u>check</u> authority in	
	imported directly from the VIS by	accordance with Article 18a of	



the border authority in accordance	Regulation (EC) No 767/2008.	
the border authority in accordance	Regulation(EC) NO / O / 2008.	
with Article 18a of Regulation (EC)		
 No 767/2008.		
5a. Where a visa holding third		
country national benefits from the		
national facilitation programme of a		
Member State in accordance with		
Article 8e of Regulation (EU)		
2016/399, the Member State		
concerned may insert a notification		
in the individual file of that third		
country national specifying the		
national facilitation programme		
concerned.		
	6. Where relevant, Member States	Compromise proposed by the
	shall insert a notification in the	Council (covers para 5 of EP text
	individual file if the third country	and para 6 of Council text).
	national benefits from their national	Provisionally agreed:
	facilitation programme in accordance	6. Where relevant, Member States
	with Article 8e of Regulation (EU)	shall insert a notification in the
	2016/399 specifying the Member	individual file if the third country
	State's national facilitation	national benefits from their national
	programme concerned. The	facilitation programme in accordance
	notification shall only be available to	with Article 8e of Regulation (EU)
	the Member State implementing such	2016/399 specifying the Member
	a programme and to those Member	State's national facilitation
	States having concluded an	programme concerned.
	agreement with the Member State	
	which granted the access as referred	
	to under Article 8e(4) of Regulation	
	(EU) 2016/399.	

		7. <u>The specific provisions set out</u> <u>in Annex II shall apply for third</u> <u>country nationals who perform their</u> <u>border crossing on the basis of a</u> <u>valid Facilitated Transit Document</u> (FTD) issued in accordance with <u>Regulation (EC) 693/2003.</u>	 Provisionally agreed. 7. The specific provisions set out in Annex II shall apply for third country nationals who perform their border crossing on the basis of a valid Facilitated Transit Document (FTD) issued in accordance with Regulation (EC) 693/2003.
Article 15 Personal data for third country nationals exempt from the visa obligation	Article 15 Personal data for t hir d country nationals exempt from the visa obligation	Article 15 Personal data for third country nationals exempt from the visa obligation	
1. For third country nationals exempt from the visa obligation, the border authority shall enter into their individual file the data provided for in Article 14(1)(a), (b), (c) and (f). In addition it shall enter into that individual file the four fingerprint of	1. For third country nationals exempt from the visa obligation, the border authority shall enter into their individual file the data provided for in Article 14(1)(a), (b), (c) and (f). In addition it shall enter into that individual file the four fingerprint of	1. [] The border check authority shall [] create the individual file of third country nationals exempt from visa obligation by entering following data	Provisionally agreed: 1. <u>The border authority shall</u> create the individual file of third country nationals exempt from visa obligation by entering following data
the index, middle-finger, ring-finger and little finger from the right hand, and where this is not possible the same fingers from the left hand, in accordance with the specifications for the resolution and use of	the index, middle-finger, ring-finger and little finger from the right hand, and where this is not possible the same fingers from the left hand, in accordance with the specifications for the resolution and use of		
fingerprints adopted by the Commission in accordance with Article 61(2). For third country nationals exempt from the visa obligation, Articles 14(2) to 14(4) shall apply.	fingerprints adopted by the Commission in accordance with Article 61(2). For third country nationals exempt from the visa obligation, Articles 14(2) to 14(4) shall apply <i>accordingly</i> .		



<u>a)</u> [] provided for in Article	Provisionally agreed:
14(1) (a), (b) <u>and</u> (c) [];	<u>a)</u> provided for in Article 14(1)
	(a), (b) <u>and</u> (c);
b) the facial image, where	Provisionally agreed but subject to
possible taken live, and where this is	the issue of the live facial image.
not possible, extracted electronically	
from the eMRTD;	
	Provisionally agreed:
<u>c)</u> [] <u>fingerprint</u> <u>data</u> [];	
	<u>c)</u> <u>fingerprint</u> <u>data</u>
	Drafting suggestion by LIBE to move
	rules out of the definitions
	Fingerprint data shall consist of data
	relating to the four fingerprints of the
	index, middle finger, ring finger and
	little finger from the right hand,
	where present, and otherwise the
	corresponding fingerprints from the
	left hand. Fingerprint data shall have
	sufficient resolution and quality to be
	used in automated biometric
	matching.
d) where relevant data provided	
	Provisionally agreed :
for in Article 14(6).	d) where relevant data provided
	for in Article 14(6).
<u>1a.</u> For third country nationals	Provisionally agreed:
exempt from the visa obligation,	1a. For third country nationals
Articles 14(2)(a), (b) and (c), 14(3)	exempt from the visa obligation,
(a) and (b) and 14(4) shall apply.	Articles 14(2)(a), (b) and (c), 14(3)
	(a) and (b) and 14(4) shall apply
	mutatis mutandis.

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

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



of visa holding third country nationals and the data required pursuant to Article 15(1) in the case of visa exempt third country nationals.	to Article 14(1) in the case of visa holding third country nationals and the <i>alphanumeric</i> data required pursuant to Article 15(1) in the case of visa exempt third country nationals. Stick with Council text.		
	Suck with Council text.	(a) the data required pursuant to Article 14(1) and, where relevant, the data referred to under Article 14(6) in the case of [] third country nationals <u>subject to a visa</u> requirement []	<i>EP questioned the relevance of inputting data as referred to under article 14(6) on the national facilitation programme.</i>
		(b) [] the data required pursuant to Article 15(1) in the case of visa exempt third country nationals <u>and in</u> the case of a third country national subject to a visa requirement if the border check <u>authority has verified</u> that the third country national is not registered in the VIS.	
		If a third country national refuses to provide biometric data, the border check authority shall create the individual file without biometric data. If the third country national possesses an eMRTD the facial image shall be extracted from this eMRTD.	EP opposed the taking of the facial image from the eMRTD when the TCN refuses to give the biometric data. EP to revert back.

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ANNEX	DG D 1 A	LIMITE	EN

2. In order to create the individual	2. In order to create the individual	[]	Deletion Provisionally agreed
file of visa holder third country	file of visa holder third country		
nationals, the data provided for in	nationals, the data provided for in		
Article 14 (1) (d), (e) and (g) may be	Article 14 (1) (d), (e) and (g) may be		
retrieved and imported directly from	retrieved and imported directly from		
the VIS into the EES by the	the VIS into the EES by the		
competent border authority in	competent border authority in		
accordance with Article 18a of	accordance with Article 18a of		
Regulation (EC) No 767/2008.	Regulation (EC) No 767/2008.		
3. For both visa holding and visa	3. For both visa holding and visa	2. For both <u>third country nationals</u>	Provisionally agreed :
exempt third country nationals the	exempt third country nationals the	subject to a visa requirement []	2. For both <u>third country nationals</u>
following data shall be entered in a	following data shall be entered in a	and visa exempt third country	subject to a visa requirement and visa
separate refusal of entry record:	separate refusal of entry record:	nationals the following data shall be	exempt third country nationals the
		entered in a separate refusal of entry	following data shall be entered in a
		record:	separate refusal of entry record:
(a) the date and time of refusal of	(a) the date and time of refusal of	(a) the date and time of refusal of	
entry,	entry,	entry,	
(b) the border crossing point,	(b) the border crossing point,	(b) the border crossing point,	
(c) the authority that refused the	(c) the authority that refused the	c) the authority that refused the	
entry,	entry,	entry,	
(d) the letter(s) corresponding to	(d) the letter(s) corresponding to	(d) the letter(s) corresponding to	
the reason(s) for refusing entry, in	the reason(s) for refusing entry, in	the reason(s) for refusing entry, in	
accordance with Annex V, Part B of	accordance with Annex V, Part B of	accordance with Annex V, Part B of	
Regulation (EU) 2016/399.	Regulation (EU) 2016/399.	Regulation (EU) 2016/399.	
		In addition, for third country	Provisionally agreed:
		nationals subject to a visa	In addition, for third country
		requirement the data provided for in	nationals subject to a visa
		Article 14(2)(d), (e), (f) and [(g)]	requirement the data provided for in
		shall be entered in the refusal of	Article 14(2)(d), (e), (f) and [(g)]
		entry record.	shall be entered in the refusal of
		In order to create or update the	entry record.
		refusal of entry record of third	In order to create or update the
		country nationals subject to a visa	refusal of entry record of third



			1
		requirement, the data provided for in	country nationals subject to a visa
		Article 14(2)(d), (e), (f) and [(g)] may	requirement, the data provided for in
		be retrieved and imported	Article 14(2)(d), (e), (f) and [(g)] may
		automatically from the VIS into the	be retrieved and imported from the
		EES by the competent border checks	VIS into the EES by the competent
		authority in accordance with Article	border checks authority in
		<u>18a of Regulation (EC) No</u>	accordance with Article 18a of
		<u>767/2008.</u>	Regulation (EC) No 767/2008.
4. Where a previous file already	4. Where a previous file already	<u>3.</u> [] <u>The record</u> provided for in	Provisionally agreed :
exists in the EES the data provided	exists in the EES the data provided	paragraph 2 shall be <u>linked</u> [] to	<u>3.</u> <u>The record provided for in</u>
for in paragraph 2 shall be added to	for in paragraph 2 shall be added to	[] the individual file of the third	paragraph 2 shall be linked to the
the existing file.	the existing file.	country national.	individual file of the third country
			national.
Article 17	Article 17	Article 17	Provisionally agreed :.
Data to be added where an	Data to be added where an	Data to be added where an	Article 17
authorisation to stay is revoked,	authorisation to stay is revoked,	authorisation <u>for short</u> [] stay is	Data to be added where an
annulled or extended	annulled or extended	revoked, annulled or extended	authorisation <u>for short</u> stay is
			revoked, annulled or extended
1. Where a decision has been	1. Where a decision has been	1. Where a decision has been	Provisionally agreed:
taken to revoke or annul an	taken to revoke or annul an	taken to revoke or annul an	1. Where a decision has been
authorisation to stay or a visa or to	authorisation to stay or a visa or to	authorisation for short stay [] or a	taken to revoke or annul an
extend the duration of the authorised	extend the duration of the authorised	visa or to extend the duration of the	authorisation for short stay or a visa
stay or visa, the competent authority	stay or visa, the competent authority	authorised stay or visa, the	or to extend the duration of the
that has taken the decision shall add	that has taken the decision shall add	competent authority that has taken	authorised stay or visa, the
the following data to the individual	the following data to the individual	the decision shall add the following	competent authority that has taken
file:	file:	data to the latest relevant entry/exit	the decision shall add the following
		<u>record []</u> :	data to the latest relevant entry/exit
			record:



(a) the status information indicating that the authorisation to stay or the visa has been revoked or annulled or that the duration of the authorised stay or the visa has been extended;	(a) the status information indicating that the authorisation to stay or the visa has been revoked or annulled or that the duration of the authorised stay or the visa has been extended;	(a) the status information indicating that the authorisation <u>for</u> <u>short</u> [] stay or the visa has been revoked or annulled or that the duration of the authorised_stay or the visa has been extended;	 Provisionally agreed: (a) the status information indicating that the authorisation <u>for</u> <u>short</u> stay or the visa has been revoked or annulled or that the duration of the authorised stay or the visa has been extended;
(b) the identity of the authority that revoked or annulled the authorisation to stay or the visa or extended the duration of the authorised stay or visa;	(b) the identity of the authority that revoked or annulled the authorisation to stay or the visa or extended the duration of the authorised stay or visa;	(b) the identity of the authority that revoked or annulled the authorisation <u>for short</u> [] stay or the visa or extended the duration of the authorised stay or visa;	 <i>Provisionally agreed:</i> (b) the identity of the authority that revoked or annulled the authorisation for short stay or the visa or extended the duration of the authorised stay or visa;.
(c) the place and date of the decision to revoke or annul the authorisation to stay or the visa or to extend the duration of the authorised stay or the visa;	(c) the place and date of the decision to revoke or annul the authorisation to stay or the visa or to extend the duration of the authorised stay or the visa;	(c) the place and date of the decision to revoke or annul the authorisation <u>for short</u> [] stay or the visa or to extend the duration of the authorised stay or the visa;	Provisionally agreed: (c) the place and date of the decision to revoke or annul the authorisation <u>for short</u> stay or the visa or to extend the duration of the authorised stay or the visa;
(d) the new visa sticker number including the three letter code of the issuing country;	(d) the new visa sticker number including the three letter code of the issuing country;	(d) <u>where applicable</u> the new visa sticker number including the three letter code of the issuing country;	 <i>Provisionally agreed:</i> (d) where applicable the new visa sticker number including the three letter code of the issuing country;
(e) the period of the extension of the authorised duration of stay;	(e) the period of the extension of the authorised duration of stay;	(e) <u>if possible</u> the period of the extension of the [] duration of <u>authorised</u> stay;	<i>Provisionally agreed:</i>e) the period of the extension of the authorised duration of stay;
(f) the new expiry date of the authorisation to stay or the visa.	(f) the new expiry date of the authorisation to stay or the visa.	 (f) <u>if possible</u> the new expiry date of the [] <u>authorised</u> stay or the visa. <u>1a.</u> <u>Where the duration of</u> <u>authorised stay has been extended in</u> <u>accordance with Article 20(2) of the</u> Convention implementing the 	 <i>Provisionally agreed:</i> (f) the new expiry date of the authorisation to stay or the visa. <i>To be discussed with the article on Bilateral Agreements.</i>



2. Where a decision has been taken to annul, revoke or extend a visa, the visa authority which has taken the decision shall immediately retrieve and import the data provided for in paragraph 1 of this Article from the VIS directly into the EES in accordance with Articles 13 and 14 of Regulation (EC) No 767/2008.	2. Where a decision has been taken to annul, revoke or extend a visa, the visa authority which has taken the decision shall immediately retrieve and import the data provided for in paragraph 1 of this Article from the VIS directly into the EES in accordance with Articles 13 and 14 of Regulation (EC) No 767/2008.	 <u>Schengen Agreement the competent</u> <u>authority shall add the data regarding</u> <u>the period of extension of the</u> <u>authorised stay to the latest relevant</u> <u>entry/exit record.</u> 2. Where a decision has been taken to annul, revoke or extend a visa, the visa authority which has taken the decision shall immediately retrieve and import <u>automatically</u> the data provided for in paragraph 1 of this Article from the VIS directly into the EES in accordance with Articles 13 and 14 of Regulation (EC) No 767/2008. 	 <i>Provisionally agreed:</i> 2. Where a decision has been taken to annul, revoke or extend a visa, the visa authority which has taken the decision shall immediately retrieve and import the data provided for in paragraph 1 of this Article from the VIS directly into the EES in accordance with Articles 13 and 14 of Regulation (EC) No 767/2008.
3. The entry/exit record shall indicate the ground(s) for revocation of the authorisation to stay, which shall be:	3. The entry/exit record shall indicate the ground(s) for revocation of the authorisation to stay, which shall be:	3. The entry/exit record shall indicate the ground(s) for revocation <u>or annulment</u> of the [] <u>authorised</u> stay, which shall be:	 <i>Provisionally agreed:</i> 3. The entry/exit record shall indicate the ground(s) for revocation <u>or annulment</u> of the <u>authorised</u> stay, which shall be:
(a) the grounds on which the person is being expelled;	(a) the grounds on which the person is being expelled;	(a) [] <u>a return decision adopted</u> <u>pursuant to Directive</u> <u>2008/115/EC^{28c};</u>	Provisionally agreed: a) <u>a return decision adopted</u> <u>pursuant to Directive</u> <u>2008/115/EC^{28c}</u> ;

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

(b) any other decision taken by the competent authorities of the Member State, in accordance with national legislation, resulting in the removal or departure of the third country national who does not fulfil or no longer fulfils the conditions for the	(b) any other decision taken by the competent authorities of the Member State, in accordance with national legislation, resulting in the removal or <i>voluntary</i> departure of the third country national who does not fulfil or no longer fulfils the conditions for	(b) any other decision taken by the competent authorities of the Member State, in accordance with national legislation, resulting in the <u>return or</u> removal or departure of the third country national who does not fulfil or no longer fulfils the conditions for	 <i>Provisionally agreed:</i> b) any other decision taken by the competent authorities of the Member State, in accordance with national legislation, resulting in the return or removal or voluntary departure of the third country national who does
entry into or for the stay in the territory of the Member States.	the entry into or for the stay in the territory of the Member States.	the entry into or for the <u>authorised</u> stay in the territory of the Member States.	not fulfil or no longer fulfils the conditions for the entry into or for the authorised stay in the territory of the Member States.
4. The entry/exit record shall indicate the grounds for extending the duration of an authorised stay.	4. The entry/exit record shall indicate the grounds for extending the duration of an authorised stay.	4. The entry/exit record shall indicate the grounds for extending the duration of an authorised stay.	
5. When a person has departed or has been removed from the territories of the Member States pursuant to a decision as referred to in paragraph 3, the competent authority shall enter the data in accordance with Article 13(2) in the entry/exit record of that specific entry.	5. When a person has departed or has been removed from the territories of the Member States pursuant to a decision as referred to in paragraph 3, the competent authority shall enter the data in accordance with Article 13(2) in the entry/exit record of that specific entry.	5. When a person has departed or has been removed from the territories of the Member States pursuant to a decision as referred to in paragraph 3, the competent authority shall enter the data in accordance with Article 13(2) in the entry/exit record of that specific entry.	
Article 18	Article 18	Article 18	Provisionally agreed:
Data to be added in case of rebuttal of the presumption that the third country national does not fulfil the conditions of duration of stay in accordance with Article 12 of Regulation (EU) 2016/399	Data to be added in case of rebuttal of the presumption that the third country national does not fulfil the conditions of duration of stay in accordance with Article 12 of Regulation (EU) 2016/399	Data to be added in case of rebuttal of the presumption that the third country national does not fulfil the conditions of duration of <u>authorised</u> stay in accordance with Article 12 of Regulation (EU) 2016/399	Article 18 Data to be added in case of rebuttal of the presumption that the third country national does not fulfil the conditions of duration of <u>authorised</u> stay in accordance with Article 12 of Regulation (EU) 2016/399
Without prejudice to Article 20,	Without prejudice to Article 20,	Without prejudice to Article 20,	EP considers that a TCN cannot
where a third country national present on the territory of a Member	where a third country national present on the territory of a Member	where a third country national present on the territory of a Member	rebut the presumption that he does not fulfil the conditions related to the



State is not registered in the EES or	State is not registered in the EES or	State [] has no individual file	duration of stars if he is at the low der
State is not registered in the EES or	State is not registered in the EES or	State [] <u>has no individual file</u>	duration of stay if he is at the border.
the entry/exit record does not contain	the entry/exit record does not contain	created in the EES or there is no last	Can delegations agree to the deletion
an exit date following the date of	an exit date following the date of	relevant entry/exit record [], the	of the paragraph:
expiry of the authorised length of	expiry of the authorised length of	competent authorities may presume	In addition, without prejudice to
stay, the competent authorities may	stay, the competent authorities may	that the third country national does	Article 20, the competent authorities
presume that the third country	presume that the third country	not fulfil or no longer fulfils the	may presume that a third country
national does not fulfil or no longer	national does not fulfil or no longer	conditions relating to duration of	national did not fulfil the conditions
fulfils the conditions relating to	fulfils the conditions relating to	authorised stay within [] the	related to the duration of the
duration of stay in the territory of the	duration of stay in the territory of the	territory of the Member States.	previous authorised stay if during the
Member States.	Member States.	In addition, without prejudice to	performance of the border checks on
In that case Article 12 of Regulation	In that case Article 12 of Regulation	Article 20, the competent authorities	entry it results that the previous
(EU) 2016/399 shall apply and if that	(EU) 2016/399 shall apply and if that	may presume that a third country	entry/exit record of the third country
presumption is rebutted by proof that	presumption is rebutted by proof that	national did not fulfil the conditions	national does not contain an exit
the third country national concerned	the third country national concerned	related to the duration of the	date.
has respected the conditions relating	has respected the conditions relating	previous authorised stay if during the	Stick with Council text.
to the condition of short stay, the	to the condition of short stay, in	performance of the border checks on	
competent authorities shall create an	accordance with Article 12(3) of	entry it results that the previous	
individual file for that third country	that Regulation, the competent	entry/exit record of the third country	
national in the EES if necessary, or	authorities shall create an individual	national does not contain an exit	
update the latest entry/exit record by	file for that third country national in	date.	
entering the missing data in	the EES if necessary, or update the	In that case Article 12 of Regulation	
accordance with Articles 14 and 15	latest entry/exit record by entering	(EU) 2016/399 shall apply and if that	
or delete an existing file where	the missing data in accordance with	presumption is rebutted by proof that	
Article 32 applies.	Articles 14 and 15 or delete an	the third country national concerned	
11	existing file where Article 32	has respected the conditions relating	
	applies.	to the condition of <u>authorised []</u>	
	TT	stay, the competent authorities shall	
		create an individual file for that third	
		country national in the EES if	
		necessary, or update the latest	
		entry/exit record by entering the	
		missing data in accordance with	
		Articles 14 and 15 or delete an	
		riticies i rund 15 of delete ull	



		existing file where Article 32	
		applies.	
Article 19	Article 19	Article 19	
Fall-back procedures in case of	Fall-back procedures in case of	Fall-back procedures in case of	
technical impossibility to enter data	technical impossibility to enter data	technical impossibility to enter data	
1 1		1 1	
<i>or failure of the EES</i> In the event of technical	or failure of the EES	<i>or failure of the EES</i> 1. In the event of technical	
		—	Provisionally agreed:
impossibility in entering data in the	impossibility in entering data in the	impossibility in entering data in the	$\underline{1.}$ In the event of technical
Central System or in the event of a	Central System or in the event of a	Central System or in the event of a	impossibility in entering data in the
failure of the Central System, the	failure of the Central System, the	failure of the Central System, the	Central System or in the event of a
data referred to in Articles 14, 15,	data referred to in Articles 14, 15,	data referred to in Articles 14, 15,	failure of the Central System, the
16, 17 and 18 shall be temporarily	16, 17 and 18 shall be temporarily	16, 17 and 18 shall be temporarily	data referred to in Articles 14, 15,
stored in the National Uniform	stored in the National Uniform	stored in the National Uniform	16, 17 and 18 shall be temporarily
Interface as provided for in Article 6.	Interface as provided for/in Article 6.	Interface as provided for in Article 6.	stored in the National Uniform
If this is not possible, the data shall	If this is not possible, the data shall	If this is not possible, the data shall	Interface as provided for in Article 6.
be temporarily stored locally. In both	be temporarily stored locally. In both	be temporarily stored locally. In []	If this is not possible, the data shall
cases, the data shall be entered into	cases, the data shall be entered into	all cases, the data shall be entered	be temporarily stored locally. In both
the Central System of the EES as	the Central System of the EES as	into the Central System of the EES	cases, the data shall be entered into
soon as the technical impossibility or	soon as the technical impossibility or	as soon as the technical impossibility	the Central System of the EES as
failure has been remedied. The	failure has been remedied. The	or failure has been remedied. The	soon as the technical impossibility or
Member States shall take the	Member States shall take the	Member States shall take the	failure has been remedied. The
appropriate measures and deploy the	appropriate measures and deploy the	appropriate measures and deploy the	Member States shall take the
required infrastructure, equipment	required/infrastructure, equipment	required infrastructure, equipment	appropriate measures and deploy the
and resources to ensure that such	and resources to ensure that such	and resources to ensure that such	required infrastructure, equipment
temporary local storage can be	temporary local storage can be	temporary local storage can be	and resources to ensure that such
carried out at any time and for any of	carried out at any time and for any of	carried out at any time and for any of	temporary local storage can be
their border crossing points.	their border crossing points.	their border crossing points.	carried out at any time and for any of
			their border crossing points.
		2. In the exceptional situation	~ .
		where there is no technical	Compromise proposal:
		possibility to register in the Central	(2) in the exceptional situation where
		System, in the National Uniform	there is no technical possibility to
		Interface and local electronic	register in the Central System, in the



	, , , , , , , , , , , , , , , , , , , 	
	temporary storage is technically	National Uniform Interface, and
	impossible, Member States shall	local electronic temporary storage is
	store manually the data referred to in	technically impossible Member
	articles 14, 15, 16, 17 and 18 with	States shall store entry/exit data in
	the exception of the biometric data	accordance with articles 14, 15, 16,
	and in addition affix an entry or exit	17 and 18 of this Regulation
	stamp in the travel document of the	Member States shall store manually
	third country national. These	the data referred to in with the
	manually stored data shall be entered	exception of the biometric data and
	in the system as soon as possible.	shall in addition affix an entry or exit
	Member States shall inform the	stamp in the travel document of the
	Commission of the stamping of	third country national, without
	travel documents in the event of	prejudice to the border checks
	exceptional situations mentioned in	required by Union Law. This data
	first subparagraph. Detailed rules on	shall be inserted into the Central
	the modalities to inform the	
		System as soon as technically
	Commission shall be adopted in	possible. These manually stored data
	accordance with examination	shall be entered in the system as soon
	procedure referred to in Article	as possible.
	<u>61(2).</u>	Member states shall inform the
		Commission of the stamping of
		travel documents in the event of
		exceptional situations mentioned in
		first sub-paragraph. Detailed rules on
		the modalities to inform the
		commission shall be adopted in
		accordance with examination
		procedure referred to in Article
		61(2).
		01(2).

		3. The EES shall indicate that	Linked with the previous paragraph.
		data referred to in Articles 14, 15,	
		16, 17 and 18 were entered during	
		fall-back procedure and that the	
		individual file created according to	
		paragraph 2 is missing biometric	
		data.	
Article 20	Article 20	Article 20	
Transitional period and transitional	Transitional period and transitional	Transitional period and transitional	
measures	measures	measures	
1. For a period of six months after	1. For a period of six months after	1. For a period of six months after	Provisionally agreed:
the EES has started operations, in	the EES has started operations, in	the EES has started operations, in	1. For a period of <i>180 days</i> after
order to verify at entry that the third	order to verify at entry that the third	order to verify at entry that the third	the EES has started operations, in
country national has not exceeded	country national has not exceeded	country national has not exceeded	order to verify at entry and at exit
the number of entries authorised by	the number of entries authorised by	the number of entries authorised by	that third country nationals admitted
the single or double entry visa and to	the single or double entry visa and to	the short stay visa issued for single	for a short stay {or on the basis of a
verify at entry and at exit that third	verify at entry and at exit that third	or double entry [] and to verify at	touring visa} entering for a short stay
country nationals entering for a short	country nationals entering for a short	entry and at exit that third country	have not exceeded the duration of the
stay have not exceeded the length of	stay have not exceeded the length of	nationals [] have not exceeded the	maximum authorised stay and, where
the maximum authorised stay, the	the maximum authorised stay, the	<u>duration []</u> of the maximum	relevant, to verify at entry that the
competent border authorities shall	competent border authorities shall	authorised_stay, the competent border	third country national has not
take into account the stays in the	take into account the stays in the	check authorities shall take into	exceeded the number of entries
territories of the Member States	territories of the Member States	account the stays in the territories of	authorised by the short stay visa
during the 180 days preceding the	during the 180 days preceding the	the Member States during the 180	issued for single or double entry, the
entry or the exit by checking the	entry or the exit by checking the	days preceding the entry or the exit	competent border authorities shall
stamps in the travel documents in	stamps in the travel documents in	by checking the stamps in the travel	take into account the stays in the
addition to the entry/exit data	addition to the entry/exit data	documents in addition to the	territories of the Member States
recorded in the EES.	recorded in the EES.	entry/exit data recorded in the EES.	during the 180 days preceding the
			entry or the exit by checking the
			stamps in the travel documents in
			addition to the entry/exit data
	\bigvee		recorded in the EES.



2. Where a third country national has entered the territory of the Member States and has not yet exited it before the EES has started operations, an individual file shall be created and the date of that entry as stamped in the passport shall be entered in the entry/exit record in accordance with Article 14(2) when the third country national exits. This rule shall not be limited to the six months after the EES has started operations as referred to in paragraph 1. In case of discrepancy between the entry stamp and the data recorded in the EES, the stamp shall prevail. <i>Article 21</i> Use of data for verification at the external borders	2. Where a third country national has entered the territory of the Member States and has not yet exited it before the EES has started operations, an individual file shall be created and the date of that entry as stamped in the passport shall be entered in the entry/exit record in accordance with Article 14(2) when the third country national exits. This rule shall not be limited to the six months after the EES has started operations as referred to in paragraph 1. In case of discrepancy between the entry stamp and the data recorded in the EES, the stamp shall prevail. <i>Article 21</i> Use of data for verification at the external borders	2. Where a third country national has entered the territory of the Member States and has not yet exited it before the EES has started operations, an individual file shall be created and the date of that entry as stamped in the passport shall be entered in the entry/exit record in accordance with Article 14(2) when the third country national exits. This rule shall not be limited to the six months after the EES has started operations as referred to in paragraph 1. In case of discrepancy between the entry stamp and the data recorded in the EES, the stamp shall prevail. <i>Article 21 Use of data for verification at the [] borders at which the EES is</i>	
1. Border authorities shall have access to the EES for verifying the identity and previous registration of the third country national, for updating the data registered into the EES where necessary and for consulting the data to the extent required for the performance of border control tasks.	1. Border authorities shall have access to the EES for verifying the identity and previous registration of the third country national, for updating the data registered into the EES where necessary and for consulting the data to the extent required for the performance of border control tasks.	operated1. Border check authorities shallhave access to the EES for verifyingthe identity and previous registrationof the third country national, forupdating the data registered into theEES where necessary and forconsulting the data to the extentrequired for the performance ofborder check [] tasks.	Provisionally agreed: 1. Border authorities shall have access to the EES for verifying the identity and previous registration of the third country national, for updating the data registered into the EES where necessary and for consulting the data to the extent required for the performance of border <u>checks.</u>

2. Pursuant to paragraph 1, the	2. Pursuant to paragraph 1, the /	2. Pursuant to paragraph 1, the	Provisionally agreed: 2.
border authorities shall have access	border authorities shall have access	border <u>check</u> authorities shall have	Pursuant to paragraph 1, the
to search with the data referred to in	to search with the data referred to in	access to search with the data	border authorities shall have access
Article 14(1)(a), (b) and (c).	Article 14(1)(a), (b) and (c).	referred to in Article 14(1)(a), (b)	to search with the data referred to in
In addition, for third country	In addition, for third country	and (c) and Article 15(1)(a).	Article $14(1)(a)$, (b) and (c) and
nationals who are subject to a visa	nationals who are subject to a visa	In addition, for third country	Article 15(1)(a).
requirement to cross the external	requirement to cross the external	nationals who are subject to a visa	In addition, for third country
borders, the border authorities may	borders, the border authorities may	requirement [], the border check	nationals who are subject to a visa
launch a search in the VIS directly	launch a search in the VIS directly	authorities [] shall where	requirement the border authorities
from the EES using the same	from the EES using the same	necessary launch a search in the VIS	shall launch a search in the VIS
alphanumeric data for the purposes	alphanumeric data for the/purposes	directly from the EES using the same	directly from the EES using the same
of carrying out the consultation of	of carrying out the consultation of	alphanumeric data for the purposes	alphanumeric data for the purposes
the VIS for verification at external	the VIS for verification/at external	of carrying out the consultation of	of carrying out the consultation of
borders in accordance with Article	borders in accordance/with Article	the VIS for verification [] in	the VIS for verification in
18 of Regulation (EC) No 767/2008.	18 of Regulation (EC) No 767/2008.	accordance with Article 18 of	accordance with Article 18 of
If the search in the EES with those	If the search in the EES with those	Regulation (EC) No 767/2008, at	Regulation (EC) No 767/2008, [at
data indicates that data on the third	data indicates that data on the third	borders at which the EES is operated.	borders at which the EES is
country national are recorded in the	country national are recorded in the	If the search in the EES with those	operated.]
EES, the border authorities shall	EES, the border/authorities shall	data indicates that data on the third	If the search in the EES with those
compare the live facial image of the	compare the live facial image of the	country national are recorded in the	data indicates that data on the third
third country national with the facial	third country national with the facial	EES, the border <u>check</u> authorities	country national are recorded in the
image referred to in Article 14(1)(f).	image referred to in Article 14(1)(f).	shall compare the live facial image of	EES, the border authorities shall
Where the technology is not	Where the technology is not	the third country national with the	compare the live facial image of the
available at the border crossing for	available at the border crossing for	facial image referred to in Article	third country national with the facial
the use of live facial image, the	the use of live facial image, the	14(1)(f) and Article 15(1)(b) [] or	image referred to in Article 14(1)(f)
border authorities shall, in the case of	border authorities shall, in the case of	the border check authorities shall, in	and Article 15(1)(b) or the border
visa exempt third country nationals,	visa exempt third country nationals,	the case of visa exempt third country	authorities shall, in the case of visa
proceed to a verification of	proceed to a verification of	nationals, proceed to a verification of	exempt third country nationals,
fingerprints against the EES and in	fingerprints against the EES and in	fingerprints against the EES and in	proceed to a verification of
the case of visa holding third country	the/case of visa holding third country	the case of [] third country	fingerprints against the EES and in
nationals, proceed to a verification of	nationals, proceed to a verification of	nationals subject to a visa	the case of third country nationals
fingerprints directly against the VIS	fingerprints directly against the VIS	requirement, proceed to a verification	subject to a visa requirement,
in accordance with Article 18 of	/in accordance with Article 18 of	of fingerprints directly against the	proceed to a verification of



Regulation (EU) No 767/2008. For	Regulation (EU) No 767/2008. For	VIS in accordance with Article 18 of	fingerprints directly against the VIS
the verification of fingerprints	the verification of fingerprints	Regulation (EU) No 767/2008. For	in accordance with Article 18 of
against the VIS for visa holders, the	against the VIS for visa holders, the	the verification of fingerprints	Regulation (EU) No 767/2008. For
border authorities may launch the	border authorities may launch the	against the VIS for visa holders, the	the verification of fingerprints
search in the VIS directly from the	search in the VIS directly from the	border check authorities may launch	against the VIS for visa holders, the
•			5
EES as provided in Article 18(6) of	EES as provided in Article 18(6) of	the search in the VIS directly from	border authorities may launch the
Regulation (EC) No 767/2008.	Regulation (EC) No 767/2008.	the EES as provided in Article 18(6)	search in the VIS directly from the
If the verification of the facial image	If the verification of the facial image	of Regulation (EC) No 767/2008.	EES as provided in Article 18(6) of
fails, the verification shall be carried	fails, the verification shall be carried	If the verification of the facial image	Regulation (EC) No 767/2008.
out using fingerprints and vice versa.	out using fingerprints and vice versa.	fails, the verification shall be carried	
	/	out using fingerprints and vice versa.	
3. If the search with the data set	3. If the search with the data set	3. If the search with the data set	Provisionally agreed:
out in paragraph 2 indicates that data	out in paragraph 2 indicates that data	out in paragraph 2 indicates that data	3. If the search with the data set
on the third country national are	on the third country national are	on the third country national are	out in paragraph 2 indicates that data
recorded in the EES, the competent	recorded in the EES, the competent	recorded in the EES, the [] border	on the third country national are
authority shall be given access to	authority shall be given access to	check authority shall be given access	recorded in the EES, the border
consult the data of the individual file	consult the data of the individual file	to consult the data of the individual	authority shall be given access to
of that third country national and the	of that third country national and the	file of that third country national and	consult the data of the individual file
entry/exit record(s) linked to it.	entry/exit record(s) linked to it.	the entry/exit record(s) or refusal of	of that third country national and the
		entry record(s) linked to it.	entry/exit record(s) or refusal of
			entry record(s) linked to it.
4. Where the search with the	4. Where the search with the	4. Where the search with the	Provisionally agreed:
alphanumeric data set out in	alphanumeric data set out in	alphanumeric data set out in	4. Where the search with the
paragraph 2 indicates that data on the	paragraph 2 indicates that data on the	paragraph 2 indicates that data on the	alphanumeric data set out in
third country national are not	third country national are not	third country national are not	paragraph 2 indicates that data on the
recorded in the EES, where a	recorded in the EES, where a	recorded in the EES, where a	third country national are not
verification of the third country	verification of the third country	verification of the third country	recorded in the EES, where a
national pursuant to paragraph 2 of	national pursuant to paragraph 2 of	national pursuant to paragraph 2 of	verification of the third country
this Article fails or where there are	this Article fails or where there are	this Article fails or where there are	national pursuant to paragraph 2 of
doubts as to the identity of the third	doubts as to the identity of the third	doubts as to the identity of the third	this Article fails or where there are
country national, the border	country national, the border	country national, the border check	doubts as to the identity of the third
authorities shall have access to data	authorities shall have access to data	authorities shall have access to data	country national, the border
for identification in accordance with	for identification in accordance with	for identification in accordance with	authorities shall have access to data
	v		

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



consulted in accordance with Article 19a of Regulation (EC) No 767/2008. The competent authority may launch a search from the EES to the VIS as provided for in Article 19a of Regulation (EC) No 767/2008."	consulted in accordance with Article 19a of Regulation (EC) No 767/2008. The competent authority may launch a search from the EES to the VIS as provided for in Article 19a of Regulation (EC) No 767/2008."	with Article 19a of Regulation (EC) No 767/2008. The [] <u>border check</u> authority may launch a search from the EES to the VIS as provided for in Article 19a of Regulation (EC) No 767/2008.	shall be consulted in accordance with Article 19a of Regulation (EC) No 767/2008. The border authority may launch a search from the EES to the VIS as provided for in Article 19a of Regulation (EC) No 767/2008.
5. For third country nationals whose data are already recorded in the EES but who had their individual file created in the EES by a Member State which is not subject to the application of Regulation (EC) No 767/2008 in accordance with its Act of Accession, the border authorities shall consult the VIS in accordance with point(a) or (b) of paragraph 4 of this Article when, for the first time after the creation of the individual file, the third country national intends to cross the external borders of a Member State which is subject to the application of Regulation (EC) No 767/2008.	5. For third country nationals whose data are already recorded in the EES but who had their individual file created in the EES by a Member State which is not subject to the application of Regulation (EC) No 767/2008 in accordance with its Act of Accession, the border authorities shall consult the VIS in accordance with point(a) or (b) of paragraph 4 of this Article when, for the first time after the creation of the individual file, the third country national intends to cross the external borders of a Member State which is subject to the application of Regulation (EC) No 767/2008.	5. [].	Linked to the territorial scope.

CHAPTER III	CHAPTER III	CHAPTER III	
Entry of data and use of the EES	Entry of data and use of the EES	Entry of data and use of the EES	
by other authorities	by other authorities	by other authorities	
Article 22	Article 22	Article 22	Provisionally agreed:
Use of the EES for examining and	Use of the EES for examining and	Use of the EES for examining and	Article 22
deciding on visa applications	deciding on visa applications	deciding on visa []	Use of the EES for examining and
			deciding on visa s
1. Visa authorities shall consult	1. Visa authorities shall consult	1. Visa authorities shall consult	
the EES for examining visa	the EES for examining visa	the EES for examining visa	
applications and adopting decisions	applications and adopting decisions	applications and adopting decisions	
relating to those applications,	relating to those applications,	relating to those applications,	
including decisions to annul, revoke	including decisions to annul, revoke	including decisions to annul, revoke	
or extend the period of validity of an	or extend the period of validity of an	or extend the period of validity of an	
issued visa, in accordance with the	issued visa, in accordance/with the	issued visa, in accordance with the	
relevant provisions of Regulation	relevant provisions of Regulation	relevant provisions of Regulation	
(EU) No 810/2009 of the European	(EU) No 810/2009 of the European	(EU) No 810/2009 of the European	
Parliament and of the Council ²⁹	Parliament and of the Council ²⁹	Parliament and of the Council. ²⁹	
		In addition, visa authorities of a	
		Member State which does not yet	
		apply Schengen acquis in full, but	
		operate the EES, shall consult EES	
		when examining national short stay	
		visa applications and adopting	
		decisions relating to those	
		applications, including decisions to	
		annul, revoke or extend the period of	
		validity of an issued national short	
	\bigvee	<u>stay visa.</u>	

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

			/
2. The visa authority shall be given access to search the EES	2. The visa authority shall be given access to search the EES	2. The visa authority shall be given access to search the EES	
directly from the VIS with one or several of the following data:	directly from the VIS with one or several of the following data:	directly from the VIS with one or several of the following data:	
(a) the data referred to in Article 14(1)(a), (b) and (c);	(a) the data referred to in Article 14(1)(a), (b) and (c);	(a) the data referred to in Article $14(1)(a)$, (b) and (c) and $15(1)(a)$;	 <i>Provisionally agreed:</i> (a) the data referred to in Article 14(1)(a), (b) and (c);
(b) the visa sticker number, including the three letter code of the issuing Member State referred to in Article 14(1)(d);	(b) the visa sticker number, including the three letter code of the issuing Member State referred to in Article 14(1)(d);	(b) the <u>short stay</u> visa sticker number, including the three letter code of the issuing Member State referred to in Article 14([] 2)(d);	 Provisionally agreed: (b) the short stay visa sticker number, including the three letter code of the issuing Member State referred to in Article 14(2)(d);
(c) the biometric data as referred to in Articles 14(1)(f) and 15.	(c) the biometric data as referred to in Articles 14(1)(f) and 15	(c) the biometric data as referred to in Articles 14(1)(f) and 15(1) (b) and (c).	Concerns were raised about checks using facial image. To be reverted to. Commission drafting suggestion (c) the fingerprint data or the fingerprint data combined with the facial image
		(d) [the touring visa sticker number of the touring visa referred to in Article 14(2)(g)];	Provisionally agreed: (d) [the touring visa sticker number of the touring visa referred to in Article 14(2)(g)];
3. If the search with the data set out in paragraph 2 indicates that data on the third country national are recorded in the EES, visa authorities shall be given access to consult the data of the individual file of that third country national and the entry/exit records linked to it.	3. If the search with the data set out in paragraph 2 indicates that data on the third country national are recorded in the EES, visa authorities shall be given access to consult the data of the individual file of that third country national and the entry/exit records linked to it.	3. If the search with the data set out in paragraph 2 indicates that data on the third country national are recorded in the EES, visa authorities shall be given access to consult the data of the individual file of that third country national and the entry/exit records <u>and also refusals of</u> entry record linked to it. Visa	 Provisionally agreed: 3. If the search with the data set out in paragraph 2 indicates that data on the third country national are recorded in the EES, visa authorities shall be given access to consult the data of the individual file of that third country national and the entry/exit records and also refusals of



		authorities shall be given access to	entry record linked to it. Visa
		consult the automated calculator in	authorities shall be given access to
		order to check the maximum	consult the automated calculator in
		remaining duration of an authorised	order to check the maximum
		stay. They shall also be able to	remaining duration of an authorised
		consult the EES and its calculator	stay. They shall also be able to
		when examining and taking decision	consult the EES and its calculator
		on a new visa application, so as to	when examining and taking decision
		automatically establish the maximum	on a new visa application, so as to
		duration of authorised stay.	automatically establish the maximum
			duration of authorised stay.
Article 23	Article 23	Article 23	
Use of the EES for examining	Use of the EES for examining	Use of the EES for examining	
applications for access to national	applications for access to national	applications for access to national	
facilitation programmes	facilitation programmes	facilitation programmes	
1. The competent authorities	1. The competent authorities	1. The competent authorities	
referred to in Article 8e of	referred to in Article 8e of	referred to in Article 8e of	
Regulation (EU) 2016/399 shall	Regulation (EU) 2016/399 shall	Regulation (EU) 2016/399 shall	
consult the EES for the purposes of	consult the EES for the purposes of	consult the EES for the purposes of	
the examination of applications for	the examination of applications for	the examination of applications for	
access to national facilitation	access to national facilitation	access to national facilitation	
programmes referred to in that	programmes referred to in that	programmes referred to in that	
Article as regards the use of the	Article as regards the use of the	Article as regards the use of the	
Entry/Exit System and the adoption	Entry/Exit System and the adoption	Entry/Exit System and the adoption	
of decisions relating to those	of decisions relating to those	of decisions relating to those	
applications, including decisions to	applications, including decisions to	applications, including decisions to	
refuse, revoke or extend the period of	refuse, revoke or extend the period of	refuse, revoke or extend the period of	
validity of access to the national	validity of access to the national	validity of access to the national	
facilitation programmes in	facilitation programmes in	facilitation programmes in	
accordance with that Article.	accordance with that Article.	accordance with that Article.	



2. The competent authority shall	2. The competent authority shall	2. The competent authority shall	Concerns were raised about checks
be given access to search with one or	be given access to search with one or	be given access to search with one or	using facial image. To be reverted to.
several of the data referred to in	several of the data referred to in	several of the data referred to in	Commission drafting suggestion.
Article 14(1)(a), (b), (c) and (f).	Article 14(1)(a), (b), (c) and (f).	Article 14(1)(a), (b), (c), and (f) and	Commission drafting suggestion:
		15(1)(a), (b) and (c).	The competent authority shall be
			given access to search with one or
			several of the following data:
			(a) the data referred to in Article
			14(1)(a), (b) and (c) or the data
			referred to in Article 15(1)(a);
			(b) the fingerprint data or the
			fingerprint data combined with the
			facial image
3. If the search with the data set	3. If the search with the data set	3. If the search with the data set	Provisionally agreed:
out in paragraph 2 indicates that data	out in paragraph 2 indicates that data	out in paragraph 2 indicates that data	3. If the search with the data set
on the third country national are	on the third country national are	on the third country national are	out in paragraph 2 indicates that data
recorded in the EES, the competent	recorded in the EES, the competent	recorded in the EES, the competent	on the third country national are
authority shall be given access to	authority shall be given access to	authority shall be given access to	recorded in the EES, the competent
consult the data of the individual file	consult the data of the individual file	consult the data of the individual file	authority shall be given access to
of that third country national and the	of that third country national and the	of that third country national and the	consult the data of the individual file
entry/exit records linked to it.	entry/exit records and refusals of	entry/exit records and also refusals of	of that third country national and the
	entry records with justifications	entry records linked to it.	entry/exit records and also refusals of
	linked to it.		entry records linked to it.
Article 24	Article 24	Article 24	
Access to data for verification within	Access to data for verification within	Access to data for verification within	
the territory of the Member States	the territory of the Member States	the territory of the Member States	
1. For the purpose of verifying	1. For the purpose of verifying	1. For the purpose of verifying	
the identity of the third country	the identity of the third country	the identity of the third country	
national and/or whether the	national and/or whether the	national and/or [] <u>checking or</u>	
conditions for entry to or stay on the	conditions for entry to or stay on the	verifying if the conditions for entry	
territory of the Member States are	territory of the Member States are	to or <u>authorised</u> stay on the territory	
fulfilled, the authorities of the	fulfilled, the authorities of the	of the Member States are fulfilled,	



		1	
Member States competent to carry	Member States competent to carry /	the <u>immigration</u> authorities of the	
out checks within the territory of the	out checks within the territory of the	Member States [] shall have access	
Member States as to whether the	Member States as to whether the /	to search with the data referred to in	
conditions for entry to, stay or	conditions for entry to, stay or /	Article 14(1)(a), (b), [] (c) <u>and</u>	
residence on the territory of the	residence on the territory of the	<u>15(1)(a)</u> .	
Member States are fulfilled, shall	Member States are fulfilled, shall	If the search indicates that data on	
have access to search with the data	have access to search with the data	the third country national are	
referred to in Article 14(1)(a), (b)	referred to in Article $14(1)(a)$, (b)	recorded in the EES, the <i>immigration</i>	
and (c).	and (c).	[] authorities <u>may</u> [] compare	
If the search indicates that data on	If the search indicates that data on	the live facial image of the third	
the third country national are	the third country national are	country national with the facial	
recorded in the EES, the competent	recorded in the EES, the competent	image referred to in Article 14(1)(f)	
authorities shall compare the live	authorities shall compare the live	and 15(1) (b) [] or the immigration	
facial image of the third country	facial image of the third country	[] authorities <u>may</u> [] <u>verify</u> []	
national with the facial image	national with the facial image	the fingerprints of visa exempt third	
referred to in Article 14(1)(f). Where	referred to in Article $14(1)(f)$. Where	country nationals in the EES and of	
the technology is not available for	the technology is not available for	[] third country nationals subject	
the use of live facial imaging, the	the use of live facial imaging, the	to a visa requirement in the VIS in	
competent authorities shall proceed	competent authorities shall proceed	accordance with Article 19 of	
with the verification of fingerprints	with the verification of fingerprints	Regulation (EC) No 767/2008.	
of visa exempt third country	of visa exempt third country		
nationals in the EES and of visa	nationals in the EES and of visa		
holding third country nationals in the	holding third country nationals in the		
VIS in accordance with Article 19 of	YIS in accordance with Article 19 of		
Regulation (EC) No 767/2008.	/Regulation (EC) No 767/2008.		
2. If the search with the data set	2. If the search with the data set	2. If the search with the data set	
out in paragraph 1 indicates that data	out in paragraph 1 indicates that data	out in paragraph 1 indicates that data	
on the third country national is	on the third country national is	on the third country national is	
recorded in the EES, the competent	recorded in the EES, the competent	recorded in the EES, the immigration	
authority shall be given access to	authority shall be given access to	[] authority shall be given access	
consult the data of the individual file	consult the data of the individual file	to consult the data of the individual	
of that person and the entry/exit	of that person and the entry/exit	file of that person, [] the entry/exit	
record(s) linked to it.	record(s) linked to it.	record(s), the automated calculator	

		and refusals of entry record(s) linked	
		to it.	
3. Where the search with the data	3. Where the search with the data	3. Where the search with the data	
set out in paragraph 2 indicates that	set out in paragraph 2 indicates that	set out in paragraph 1 indicates that	
data on the third country national are	data on the third country national are	data on the third country national are	
not recorded in the EES, where	not recorded in the EES, where	not recorded in the EES, where	
verification of the third country	verification of the third country	verification of the third country	
national fails or where there are	national fails or where there are	national fails or where there are	
doubts as to the identity of the third	doubts as to the identity of the third	doubts as to the identity of the third	
-	•	•	
country national, the border authorities shall have access to data	country national, the border authorities shall have access to data	country national, the	
for identification in accordance with		[] <u>immigration</u> authorities shall have access to data for identification	
	for identification in accordance with Article 25.		
Article 25.		in accordance with Article 25. Article 25	
	Article 25		
Access to data for identification	Access to data for identification	Access to data for identification	
1. For the sole purpose of	1. For the sole purpose of	1. <u>The border check authorities or</u>	Provisionally agreed with Council
identifying any third country national	identifying any third country national	immigration authorities shall have	text.
who may have been registered	who may have been registered	access to search with the biometric	Commission drafting suggestion:
previously in the EES under a	previously in the EES under a	data of third country nationals	1. The border authorities or
different identity or who does not or	different identity or who does not or	referred to in Articles 14(1)(f) and	immigration authorities shall have
no longer fulfils the conditions for	no longer fulfils the conditions for	<u>15(1) (b) and (c)</u> , for the sole	access to search with the fingerprint
entry to, for stay or for residence on	entry to, for stay or for residence on	purpose of identifying any third	data or the fingerprint data combined
the territory of the Member States,	the territory of the Member States,	country national who may have been	with the facial image, for the sole
the competent authorities for	the competent authorities for	registered previously in the EES	purpose of identifying any third
carrying out checks at external	carrying out checks at external	under a different identity or who	country national who may have been
border crossing points in accordance	border crossing points in accordance	does not or no longer fulfils the	registered previously in the EES
with Regulation (EU) 2016/399 or	with Regulation (EU) 2016/399 or	conditions for entry [] <u>or</u> , for	under a different identity or who
within the territory of the Member	within the territory of the Member	<u>authorised</u> stay [] on the territory	does not or no longer fulfils the
States as to whether the conditions	States as to whether the conditions	of the Member States. []	conditions for entry <u>or</u> , for
for entry to, stay or residence on the	for entry to, stay or residence on the	Where the search with the data	<u>authorised</u> stay on the territory of the
territory of the Member States are	territory of the Member States are	referred to in Articles 14(1)(f) and	Member States.
fulfilled shall have access to search	fulfilled shall have access to search	15(1) (b) and (c) indicates that data	Where the search with the fingerprint
with the biometric data of that third	with the biometric data of that third	on that third country national are not	in all of the section when the imporprint

country national referred to in	country national referred to in	recorded in the EES, access to data	data or with the fingerprint data
Articles 14(1)(f) and 15(1).	Articles 14(1)(f) and 15(1).	for identification shall be carried out	combined with the facial image
Where the search with the data	Where the search with the data	in the VIS in accordance with Article	indicates that data on that third
referred to in Articles 14(1)(f) and	referred to in Articles 14(1)(f) and	20 of Regulation (EC) No 767/2008.	country national are not recorded in
15(1) indicates that data on that third	15(1) indicates that data on that third	At [] borders at which the EES is	the EES, access to data for
country national are not recorded in	country national are not recorded in	operated, prior to any identification	identification shall be carried out in
the EES, access to data for	the EES, access to data for	against the VIS, the competent	the VIS in accordance with Article
identification shall be carried out in	identification shall be carried out in	authorities shall first access the VIS	20 of Regulation (EC) No 767/2008.
the VIS in accordance with Article	the VIS in accordance with Article	in accordance with Articles 18 or 19a	At [borders at which the EES is
20 of Regulation (EC) No 767/2008.	20 of Regulation (EC) No 767/2008.	of Regulation (EC) No 767/2008.	operated], prior to any identification
At external borders, prior to any	At external borders, prior to any	Where the fingerprints of that third	against the VIS, the competent
identification against the VIS, the	identification against the VIS, the	country national cannot be used or	authorities shall first access the VIS
competent authorities shall first	competent authorities shall first	the search with the fingerprints []	in accordance with Articles 18 or 19a
access the VIS in accordance with	access the VIS in accordance with	has failed, the search shall be carried	of Regulation (EC) No 767/2008.
Articles 18 or 19a of Regulation	Articles 18 or 19a of Regulation	out with <u>all or some of</u> the data	Where the fingerprints of that third
(EC) No 767/2008.	(EC) No 767/2008.	referred to in Articles 14(1)(a), []	country national cannot be used or
Where the fingerprints of that third	Where the fingerprints of that third	(b), (c), and <u>15(1)(a).</u>	the search with the fingerprints []
country national cannot be used or	country national cannot be used or		has failed, the search shall be carried
the search with the fingerprints and	the search with the fingerprints and		out with <u>all or some of the data</u>
the facial image has failed, the search	the facial image has failed, the search		referred to in Articles 14(1)(a), []
shall be carried out with the data	shall be carried out with the data		(b), (c), and <u>15(1)(a).</u>
referred to in Article 14(1)(a) or (b)	referred to in Article 14(1)(a) or (b)		
or in both.	or in <i>both.</i> Article 14(1)(a) and (b).		
2. If the search with the data set	2. If the search with the data set	2. If the search with the data set	Provisionally agreed:
out in paragraph 1 indicates that data	out in paragraph 1 indicates that data	out in paragraph 1 indicates that data	2. If the search with the data set
on the third country national are	on the third country national are	on the third country national are	out in paragraph 1 indicates that data
recorded in the EES, the competent	recorded in the EES, the competent	recorded in the EES, the competent	on the third country national are
authority shall be given access to	authority shall be given access to	authority shall be given access to	recorded in the EES, the competent
consult the data of the individual file	consult the data of the individual file	consult the data of the individual file,	authority shall be given access to
and the linked entry/exit records	and the linked entry/exit records	[] the linked entry/exit records and	consult the data of the individual file,
		refusal of entry records.	the linked entry/exit records and
			refusal of entry records.



Article 25a	EP are strongly against giving
Access to data for examining the	access to EES for the purposes of
application for international	examining an asylum application. EP
	argues that this does not respect the
protection	0
	principle of purpose limitation,
	necessity and proportionality.
<u>1.</u> For the sole purpose of	
facilitation of examining an	
application for international	
protection, the determining	
authorities shall have access to	
search the EES with the data referred	
to in Article 14(1) and 15 (1) (a),	
<u>(b),(c).</u>	
2. If the search with the data	
listed in paragraph 1 indicates that	
the data of the third country national	
is recorded in the EES, the	
competent determining authorities	
shall be given access to consult the	
data referred to in Article 14(1), (2),	
(3)(a), (3)(b) and (4) as well as in	
Article $15(1)(a)$, (b), (c), for the sole	
purpose referred to in paragraph 1.	
[Art. 25b	To revert back depending on
Access to data for determining the	discussion on the Dublin Proposal.
responsibility for asylum	I.
applications	
1. For the sole purpose of	
determining the Member State	
responsible for an application for	
international protection, the	
competent authorities referred to in	



Article 35(1) of Regulation (EU)
604/2013 shall have access to search
in the EES with the data referred to
in Art. 14(1) and Art. 15(1)(a), (b)
and (c).
2. If the search with the data
listed in paragraph 1 indicates that
the data of a third country national is
recorded in the EES, the competent
authority of the respective Member
State referred to in Article 35(1) of
Regulation (EU) 604/2013 shall be
given access to consult the data
referred to in Article 14(1), (2)(a)
and (2)(b) as well as in Article
15(1)(a), (b) and (c), for the sole
purpose referred to in paragraph 1.]



CHAPTER IV: Procedure and conditions for access to the EES for law enforcement purposes	CHAPTER IV: Procedure and conditions for access to the EES for law enforcement purposes	CHAPTER IV: Procedure and conditions for access to the EES for law enforcement purposes	The discussion on Chapter IV will be taken up at COREPER of 24 May.
Article 26	Article 26	Article 26	Provisionally agreed:
Member States' designated law	Member States' designated law	Member States' designated []	Article 26
enforcement authorities	enforeement authorities	authorities	Member States' designated
1 M 1 Q 4 1 11 1 ' 4		1 M 1 G((1 11 1) (authorities
1. Member States shall designate	1. Member States shall designate	1. Member States shall designate	
the law enforcement authorities	the law enforcement authorities	the [] authorities <u>referred to under</u>	
which are entitled to consult the data	which are entitled to consult the data	<u>Article $3(1)(26a)$</u> which are entitled	
stored in the EES in order to prevent,	stored in the EES in order to prevent,	to consult the data stored in the EES	
detect and investigate terrorist	detect and investigate terrorist	in order to prevent, detect and	
offences or other serious criminal	offences or other serious criminal	investigate terrorist offences or other	
offences.	offences	serious criminal offences.	
2. Each Member State shall keep	2. Each Member State shall keep	2. Each Member State shall keep	
a list of the designated authorities.	a list of the designated authorities.	a list of the designated authorities.	
Each Member State shall notify in a	Each Member State shall notify in a	Each Member State shall notify []	
declaration to eu-LISA and the	declaration to eu-LISA and the	eu-LISA and the Commission of its	
Commission its designated	Commission its designated	designated authorities and may at	
authorities and may at any time	authorities and may at any time	any time amend or replace its	
amend or replace its declaration with	amend or replace its declaration with	notification. []	
another declaration. The declarations	another declaration. The declarations		
shall be published in the Official	shall be published in the Official		
Journal of the European Union.	Yournal of the European Union.		
3. Each Member State shall	3. Each Member State shall	3. Each Member State shall	
designate a central access point	designate a central access point	designate a central access point	
which shall have access to the EES.	which shall have access to the EES.	which shall have access to the EES.	
The central access point shall be an	The central access point shall be an	[]. The central access point shall	
authority of the Member State which	authority of the Member State which	[] <u>ensure</u> that the conditions to	
is responsible for the prevention,	is responsible for the prevention,	request access to the EES laid down	
detection or investigation of terrorist	detection or investigation of terrorist	in Article 29 of this Regulation are	
offences or of other serious criminal	offences or of other serious criminal	fulfilled.	



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



· · · · · · · · · ·			
5. At national level, each Member		,	
State shall keep a list of the operating		State shall keep a list of the operating	
units within the designated	units within the designated	units within the designated	
authorities that are authorised to	authorities that are authorised to	authorities that are authorised to	
request access to data stored in the	request access to data stored in the	request access to data stored in the	
EES through the central access	EES through the central access	EES through the central access	
point(s).	point(s).	point(s).	
6. Only duly empowered staff of	6. Only duly empowered staff of	6. Only duly empowered staff of	
the central access point(s) shall be	the central access point(s) shall be	the central access point(s) shall be	
authorised to access the EES in	authorised to access the EES in	authorised to access the EES in	
accordance with Articles 28 and 29.	accordance with Articles 28 and 29.	accordance with Articles 28 and 29.	
Article 27	Article 27	Article 27	
Europol	Europol	Europol	
1. Europol shall designate an	1. Europol shall designate an	1. Europol shall designate an	
authority which is authorised to	authority which is authorised to	authority which is authorised to	
request access to the EES through its	request access to the EES through its	request access to the EES through its	
designated central access point in	designated central access point in	designated central access point in	
order to prevent, detect and	order to prevent, detect and	order to prevent, detect and	
investigate terrorist offences or other	investigate terrorist offences or other	investigate terrorist offences or other	
serious criminal offences. The	serious criminal offences. The	serious criminal offences. The	
designated authority shall be an	designated authority shall be an	designated authority shall be an	
operating unit of Europol.	øperating unit of Europol.	operating unit of Europol.	
2. Europol shall designate a	2. Europol shall designate a	2. Europol shall designate a	
specialised unit with duly	specialised unit with duly	specialised unit with duly	
empowered Europol officials as the	empowered Europol officials as the	empowered Europol officials as the	
central access point. The central	central access point. The central	central access point. The central	
access point shall verify that the	access point shall verify that the	access point shall verify that the	
conditions to request access to the	conditions to request access to the	conditions to request access to the	
EES laid down in Article 30 are	EES laid down in Article 30 are	EES laid down in Article 30 are	
fulfilled.	fulfilled.	fulfilled.	
The central access point shall act	The central access point shall act	The central access point shall act	
independently when performing its	independently when performing its	independently when performing its	
tasks under this Regulation and shall	tasks under this Regulation and shall	tasks under this Regulation and shall	
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not receive instructions from the	not receive instructions from the	not receive instructions from the	
designated authority referred to in	designated authority referred to in	designated authority referred to in	
paragraph 1 as regards the outcome	paragraph 1 as regards the outcome	paragraph 1 as regards the outcome	
of the verification.	of the verification.	of the verification.	
Article 28	Article 28	Article 28	
Procedure for access to the EES for	Procedure for aecess to the EES for	Procedure for access to the EES for	
law enforcement purposes	taw enforcement purposes	law enforcement purposes	
1. The operating units referred to	1. The operating units referred to /	1. The operating units referred to	
in Article 26(5) shall submit a	in Article 26(5) shall submit a	in Article 26(5) shall submit a	
reasoned electronic request to the	reasoned electronic request to the	reasoned electronic or written	
central access points referred to in	central access points referred to in	request to the central access points	
Article 26(3) for access to data	Article 26(3) for access to data	referred to in Article 26(3) for access	
stored in the EES. Upon receipt of a	stored in the EES. Upon receipt of a	to data stored in the EES. Upon	
request for access, the central access	request for access, the central access	receipt of a request for access, the	
point(s) shall verify whether the	point(s) shall verify whether the	central access point(s) shall verify	
conditions for access referred to in	conditions for access referred to in	whether the conditions for access	
Article 29 are fulfilled. If the	Article 29 are fulfilled. If the	referred to in Article 29 are fulfilled.	
conditions for PresidencyMT9	conditions for access are fulfilled,	If the conditions for access are	
access are fulfilled, the duly	the duly authorised staff of the	fulfilled, [] the central access	
authorised staff of the central access	central access point(s) shall process	point(s) shall process the requests.	
point(s) shall process the requests.	the requests. The EES data accessed	The EES data accessed shall be	
The EES data accessed shall be	shall be transmitted to the operating	transmitted to the operating units	
transmitted to the operating units	units referred to in in Article 26(5) in	referred to in Article 26(5) in such a	
referred to in in Article 26(5) in such	such a way as to not compromise the	way as to not compromise the	
a way as to not compromise the	security of the data.	security of the data.	
security of the data.			
2. In an exceptional case of	2. In an exceptional case of	2. $[\dots] \underline{W}$ here there is a need to	
urgency, where there is a need to	urgency, where there is a need to	prevent <u>a terrorist offence or</u> an	
prevent an imminent danger	prevent an imminent danger	imminent danger associated with	
associated with a terrorist offence or	associated with a terrorist offence or	[] another serious criminal	
another serious criminal offence, the	another serious criminal offence, the	offence, the central access point(s)	
central access point(s) shall process	central access point(s) shall process	shall process the request immediately	
the request immediately and shall	the request immediately and shall	and shall only verify ex post whether	



only verify ex post whether all the	only verify ex post whether all the	all the conditions of Article 29 are	
conditions of Article 29 are fulfilled.	conditions of Article 29 are fulfilled.		
		fulfilled, including whether $\underline{a}[]$	
including whether an exceptional	including whether an exceptional	case of urgency actually existed. The	
case of urgency actually existed. The	case of urgency actually existed. The	ex post verification shall take place	
ex post verification shall take place	ex post verification shall take place	without undue delay after the	
without undue delay after the	without undue delay and in any	processing of the request.	
processing of the request.	event no later than 48 hours after		
	the processing of the request.		
3. Where an ex post verification	3. Where an ex post verification	3. Where an ex post verification	
determines that the access to EES	determines that the access to EES	determines that the access to EES	
data was not justified, all the	data was not justified, all the	data was not justified, all the	
authorities that accessed such data	authorities that accessed such data	authorities that accessed such data	
shall erase the information accessed	shall erase the information accessed	shall erase the information accessed	
from the EES and shall inform the	from the EES and shall inform the	from the EES and shall inform the	
central access points of the erasure.	central access points of the erasure.	central access points of the erasure.	
Article 29	Article 29	Article 29	
Conditions for access to EES data by	Conditions for access to EES data by	Conditions for access to EES data by	
designated authorities of Member	designated authorities of Member	designated authorities of Member	
States	States	States	
1. Designated authorities may	1. Designated authorities may	1. Designated authorities may	
access the EES for consultation if all	access the EES for consultation if all	access the EES for consultation if all	
of the following conditions are met:	of the following conditions are met:	of the following conditions are met:	
(a) access for consultation is	(a) access for consultation is	(a) access for consultation is	
necessary for the purpose of the	necessary for the purpose of the	necessary for the purpose of the	
	prevention, detection , or	• • •	
prevention, detection or investigation	1 , ,	prevention, detection or investigation	
of a terrorist offences or another	investigation <i>or prosecution</i> of a	of a terrorist offences or another	
serious criminal offence, thus	terrorist <i>offence</i> or another serious	serious criminal offence, thus	
making a search of the database	criminal offence , thus making a	making a search of the database	
proportionate if there is an overriding	search of the database proportionate	proportionate if there is an overriding	
public security concer;	if there is an overriding public	public security concer <u>n</u> ;	
	security concern		
	MS could support		



(b) access for consultation is	(b) access for consultation is	(b) access for consultation is	
necessary in a specific case;	necessary <i>and proportionate</i> in a specific case;	necessary in a specific case;	
	MS could support		
(c) reasonable grounds exist to consider that the consultation of the EES data may substantially contribute to the prevention, detection or investigation of any of the criminal offences in question, in particular where there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls under a category covered by this Regulation;	 (c) evidence or reasonable grounds exist to consider that the consultation of the EES data may will substantially contribute to the prevention, detection, or investigation or prosecution of any of the criminal offences in question, in particular where there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls under a category covered by this Regulation; MS would prefer to keep 'may' 	(c) reasonable grounds exist to consider that the consultation of the EES data may [] contribute to the prevention, detection or investigation of any of the criminal offences in question, in particular where there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls under a category covered by this Regulation;	
	clause and do not support deletion of 'substantiated suspicion'		
2. The access to the EES as a criminal identification tool for the purpose of identifying an unknown suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence shall be allowed when the conditions listed in paragraph 1 are met and the following additional conditions are met:	2. The access to the EES as a eriminal identification tool for the purpose of identifying an unknown suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence shall be allowed when the conditions listed in paragraph 1 are met and the following additional conditions are met:	2. The access to the EES as a criminal identification tool for the purpose of identifying an unknown suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence shall be allowed when the conditions listed in paragraph 1 are met and the following additional conditions are met:	
(a) a prior search has been conducted in national databases without success;	(a) a prior search has been conducted in national databases without success;	(a) a prior search has been conducted in national databases []	

	• • •	
0 1/	<u> </u>	
•	of the other Member States under	
under Decision 2008/615/JHA where	Decision 2008/615/JHA where	
comparisons of fingerprints are	comparisons of fingerprints are	
technically available.	technically available.	
However, that prior search does not	However, the additional conditions	
have to be conducted where there are	in sub-paragraphs (a) and (b) of this	
reasonable grounds to believe that a	paragraph shall not apply [] where	
comparison with the systems of the	there are reasonable grounds to	
other Member States would not lead	believe that a comparison with the	
to the verification of the identity of	systems of the other Member States	
the data subject or in exceptionally	would not lead to the verification of	
urgent cases where it is necessary to	the identity of the data subject or	
avert an imminent danger arising	where there is a need to prevent a	
from a terrorist offence or other	terrorist offence or an imminent	
serious criminal offence. Those	danger associated with another	
reasonable grounds shall be included	serious criminal offence. Those	
in the electronic request for	reasonable grounds shall be included	
comparison with EES data sent by	in the electronic or written request	
the designated authority to the	for comparison with EES data sent	
central access point(s).	by the operational unit [] to the	
Since fingerprint data of visa holding	central access point(s).	
third country nationals are only	Since fingerprint data of [] third	
stored in the VIS, a request for	01	
consultation of the VIS on the same	requirement are only stored in the	
data subject may be submitted in	$\overline{\text{VIS}}$, a request for consultation of the	
	· •	
of the EES in accordance with the		
conditions laid down in Decision	consultation of the EES in	
	accordance with the conditions laid	
	technically available. However, that prior search does not have to be conducted where there are reasonable grounds to believe that a comparison with the systems of the other Member States would not lead to the verification of the identity of the data subject or in exceptionally urgent cases where it is necessary to avert an imminent danger arising from a terrorist offence or other serious criminal offence. Those reasonable grounds shall be included in the electronic request for comparison with EES data sent by the designated authority to the central access point(s). Since fingerprint data of visa holding third country nationals are only stored in the VIS, a request for consultation of the VIS on the same data subject may be submitted in parallel to a request for consultation of the EES in accordance with the	fingerprints, a prior search has been conducted without success in the automated fingerprint verification system of the other Member States under Decision 2008/615/JHA where comparisons of fingerprints are technically available.fingerprints, a prior search has been launched [] in the automated fingerprint identification [] system of the other Member States under Decision 2008/615/JHA where comparisons of fingerprints are technically available.However, that prior search does not have to be conducted where there are reasonable grounds to believe that a comparison with the systems of the other Member States would not lead to the verification of the identity of the data subject or in exceptionally urgent cases where it is necessary to avert an imminent danger arising from a terrorist offence or other serious criminal offence. Those reasonable grounds shall be included in the electronic request for consultation of the VIS on the same data subject may be submitted in parallel to a request for consultation of the EES in accordance with the conditions laid down in Decisionfingerprints, a prior search has been launched [] in the automated fingerprints are technically available.fingerprintsareHowever, the additional conditions in sub-paragraphs (a) and (b) of this paragraph shall not apply [] where the data subject or in exceptionally urgent cases where it is necessary to any the designated authority to the central access point(s).However, the additional conditions in sub-paragraphs (a) and (b) of this paragraph shall not apply [] where the identity of the data subject or would not lead to the verification of the identity of the data subject or the identity of the data subject or sound in the VIS, a request for consultation of the

subject.	carried out in accordance with	down in Decision 2008/633/JHA	
	points(a) and (b) of the first	[].	
	subparagraph did not lead to the	[].	
	verification of the identity of the data		
	subject.		
3. The access to the EES as a	3. The access to the EES as a	3. The access to the EES as a	
criminal intelligence tool to consult	criminal intelligence tool to consult	criminal intelligence tool to consult	
the travel history or the periods of	the travel history or the periods of	the travel history or the periods of	
stay in the Schengen area of a known	stay in the Schengen area of a known	authorised stay on the territory of the	
suspect, perpetrator or suspected	suspect, perpetrator or suspected	Member States [] of a known	
victim of a terrorist offence or other	victim of a terrorist offence or other	suspect, perpetrator or suspected	
serious criminal offence shall be	serious criminal offence shall be	victim of a terrorist offence or other	
allowed when the conditions listed in	allowed when the conditions listed in	serious criminal offence shall be	
paragraph 1 are met and where there	paragraph 1 are met and where there	allowed when the conditions listed in	
is a duly justified need to consult the	is a duly justified need to consult the	paragraph 1 are met. []	
entry/exit records of the person	entry/exit records of the person		
concerned.	concerned.		
4. Consultation of the EES for	4. Consultation of the EES for	4. Consultation of the EES for	
identification shall be limited to	identification as referred to in	identification shall be limited to	
searching in the application file with	paragraph 2 shall be limited to	searching in the [] <u>individual</u> file	
any of the following EES data:	searching in the application file with	with any of the following EES data:	
	any of the following EES data:		
(a) Fingerprints (including latents)	(a) Fingerprints (including latents)	(a) Fingerprints [] of visa	
of visa exempt third country	of visa exempt third country	exempt third country nationals or of	
nationals;	nationals;	holders of a Facilitated Transit	
		Document (FTD) issued in	
		accordance with Regulation (EC)	
		693/2003. In order to launch this	
		consultation of the EES, latent	
		fingerprints may be used and may	
		therefore be compared with the	
		fingerprints stored in the EES;	

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(b) Facial image.	(b) Facial image.	(b) Facial image.	
Consultation of the EES, in case of a	Consultation of the EES, in case of a	Consultation of the EES, in case of a	
hit, shall give access to any other	hit, shall give access to any other	hit, shall give access to any other	
data taken from the individual file as	data taken from the individual file as	data taken from the individual file as	
listed in Article 14(1) and Article	listed in Article 14(1) and Article	listed in Article 14(1), <u>14(6),</u> []	
15(1).	15(T).	Article 15(1) and Article 16(1).	
5. Consultation of the EES for the	5. Consultation of the EES for the	5. Consultation of the EES for the	
travel history of the third country	travel history of the third country	travel history of the third country	
national concerned shall be limited to	national concerned as referred to in	national concerned shall be limited to	
searching with any of the following	paragraph 3 shall be limited to	searching with any of the following	
EES data in the individual file or in	searching with any of the following	EES data in the individual file,[] in	
the entry/exit records:	EES data in the individual file or in	the entry/exit records or in the	
	the entry/exit records:	refusal of entry record:	
(a) Surname(s) (family name);	(a) Surname(s) (family name);	(a) Surname(s) (family name);	
first name(s) (given names); date of	first name(s) (given names); date of	first name(s) (given names), date of	
birth, nationality or nationalities and	birth, nationality or nationalities and	birth, nationality or nationalities	
sex;	sex;	and <u>/or</u> sex;	
(b) Type and number of travel	(b) Type and number of travel	(b) Type and number of travel	
document or documents, three letter	document or documents, three letter	document or documents, three letter	
code of the issuing country and date	code of the issuing country and date	code of the issuing country and date	
of expiry of the validity of the travel	of expiry of the validity of the travel	of expiry of the validity of the travel	
document;	document;	document;	
(c) Visa sticker number and the	(c) Visa sticker number and the	(c) Visa sticker number and the	
date of expiry of the validity of the	date of expiry of the validity of the	date of expiry of the validity of the	
visa.	visa.	visa <u>:</u>	
(d) Fingerprints (including	(d) Fingerprints (including	(d) Fingerprints. In order to launch	
latents);	latents);	this consultation of the EES, latent	
		fingerprints may be used and may	
		therefore be compared with the	
		fingerprints stored in the EES. []	



(e) Facial image;	(e) Facial image;	(e) Facial image;	
(f) Date and time of entry, entry	(f) Date and time of entry, entry	(f) Date and time of entry, []	
authoriser authority and entry border	authoriser authority and entry border	authority that authorised the entry	
crossing point;	crossing point;	and entry border crossing point;	
(g) Date and time of exit and exit	(g) Date and time of exit and exit	(g) Date and time of exit and exit	
border crossing point:	border erossing point;	border crossing point.	
Consultation of the EES shall, in the	Consultation of the EES shall, in the	Consultation of the EES shall, in the	
event of a hit, give access to the data	event of a hit, give access to the data	event of a hit, give access to the data	
listed in this paragraph as well as to	listed in this paragraph as well as to	listed in this paragraph as well as to	
any other data taken from the	any other data taken from the	any other data taken from the	
individual file and the entry/exit	individual file and the entry/exit	individual file, [] the entry/exit	
records including data entered in	records including data entered in	records and refusal of entry records	
respect of revocation or extension of	respect of revocation or extension of	including data entered in respect of	
authorisation to stay in accordance	authorisation to stay in accordance	revocation or extension of <u>authorised</u>	
with Article 17.	with Article 17.	[] stay in accordance with Article	
	/	17.	
Article 30	Article 30	Article 30	
Procedure and conditions for access	Procedure and conditions for access	Procedure and conditions for access	
to EES data by Europol	to EES data by Europol	to EES data by Europol	
1. Europol shall have access to	1. Europol shall have access to	1. Europol shall have access to	
consult the EES where all the	consult the EES where all the	consult the EES where all the	
following conditions are met:	following conditions are met:	following conditions are met:	
(a) the consultation is necessary to	following conditions are met: (a) the consultation is necessary to	following conditions are met:(a) the consultation is necessary to	
(a) the consultation is necessary to support and strengthen action by	following conditions are met:(a) the consultation is necessary tosupport and strengthen action by	following conditions are met:(a) the consultation is necessary tosupport and strengthen action by	
(a) the consultation is necessary to support and strengthen action by Member States in preventing,	 following conditions are met: (a) the consultation is necessary to support and strengthen action by Member States in preventing, 	following conditions are met:(a) the consultation is necessary tosupport and strengthen action byMember States in preventing,	
 (a) the consultation is necessary to support and strengthen action by Member States in preventing, detecting or investigating terrorist 	following conditions are met: (a) the consultation is necessary to support and strengthen action by Member States in preventing, detecting or investigating terrorist	following conditions are met:(a) the consultation is necessary tosupport and strengthen action byMember States in preventing,detecting or investigating terrorist	
 (a) the consultation is necessary to support and strengthen action by Member States in preventing, detecting or investigating terrorist offences or other serious criminal 	following conditions are met: (a) the consultation is necessary to support and strengthen action by Member States in preventing, detecting or investigating terrorist offences or other serious criminal	following conditions are met:(a) the consultation is necessary tosupport and strengthen action byMember States in preventing,detecting or investigating terroristoffences or other serious criminal	
 (a) the consultation is necessary to support and strengthen action by Member States in preventing, detecting or investigating terrorist offences or other serious criminal offences falling under Europol's 	following conditions are met: (a) the consultation is necessary to support and strengthen action by Member States in preventing, detecting or investigating terrorist offences or other serious criminal offences falling under Europol's	following conditions are met:(a) the consultation is necessary tosupport and strengthen action byMember States in preventing,detecting or investigating terroristoffences or other serious criminaloffences falling under Europol's	
 (a) the consultation is necessary to support and strengthen action by Member States in preventing, detecting or investigating terrorist offences or other serious criminal offences falling under Europol's mandate, thus making a search of the 	following conditions are met: (a) the consultation is necessary to support and strengthen action by Member States in preventing, detecting or investigating terrorist offences or other serious criminal offences falling under Europol's mandate; thus making a search of the	following conditions are met:(a) the consultation is necessary tosupport and strengthen action byMember States in preventing,detecting or investigating terroristoffences or other serious criminaloffences falling under Europol'smandate, thus making a search of the	
 (a) the consultation is necessary to support and strengthen action by Member States in preventing, detecting or investigating terrorist offences or other serious criminal offences falling under Europol's 	following conditions are met: (a) the consultation is necessary to support and strengthen action by Member States in preventing, detecting or investigating terrorist offences or other serious criminal offences falling under Europol's	following conditions are met:(a) the consultation is necessary tosupport and strengthen action byMember States in preventing,detecting or investigating terroristoffences or other serious criminaloffences falling under Europol's	



(b) the consultation is necessary in	(b) the consultation is necessary	(b) the consultation is necessary in	
a specific case;	and proportionate in a specific case;	a specific case;	
(c) reasonable grounds exist to	(c) <i>evidence or</i> reasonable	(c) reasonable grounds exist to	
consider that the consultation may	grounds exist to consider that the	consider that the consultation may	
substantially contribute to the	consultation may <i>will</i> substantially	substantially contribute to the	
prevention, detection or investigation	contribute to the prevention,	prevention, detection or investigation	
of any of the criminal offences in	detection, or investigation or	of any of the criminal offences in	
question, in particular where there is	prosecution of any of the criminal	question, in particular where there is	
a substantiated suspicion that the	offences in question, in particular	a substantiated suspicion that the	
suspect, perpetrator or victim of a	where there is a substantiated	suspect, perpetrator or victim of a	
terrorist offence or other serious	suspicion that the suspect,	terrorist offence or other serious	
criminal offence falls under a	perpetrator or victim of a terrorist	criminal offence falls under a	
category covered by this Regulation.	offence or other serious criminal	category covered by this Regulation.	
	offence falls under a category		
	covered by this Regulation.		
	1a. Access to the EES as a tool for		
	the purpose of identifying an		
	unknown suspect, perpetrator or		
	suspected victim of a terrorist		
	offence or other serious criminal		
	offence shall be allowed where the		
	conditions listed in paragraph 1 are		
	met and the consultation, as a		
	matter of priority, of the data stored		
	in the databases that are technically		
	and legally accessible by Europol		
	has not made it possible to verify the		
	identity of the person concerned.		
	Since fingerprint data of visa-		
	holding third-country nationals are		
	only stored in the VIS, a request for		
	consultation of the VIS on the same		
	data subject may be submitted in		



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	parallel to a request for consultation of the EES in accordance with the conditions laid down in Decision 2008/633/JHA provided that the consultation, as a matter of priority, of the data stored in the databases that are technically and legally accessible by Europol has not made it possible to verify the identity of the person concerned.		
2. The conditions laid down in Article 29 (2) to (5) shall apply accordingly.	2. The conditions laid down in Article 29 (2) (3) to (5) shall apply accordingly.	2. The conditions laid down in Article 29 ([] <u>3</u>) to (5) shall apply accordingly.	
		2a. <u>In addition, the access to the</u> <u>EES as a criminal identification tool</u> for the purpose of identifying an <u>unknown suspect, perpetrator or</u> <u>suspected victim of a terrorist</u> offence or other serious criminal offence shall be allowed only if prior consultation of data stored in any information processing systems that are technically and legally accessible by Europol did not lead to the establishment of the identity of the data subject. Since fingerprint data of visa holding third country nationals are only stored in the VIS, a request for consultation of the VIS on the same data subject may be submitted in parallel to a request for consultation of the VIS shall be	



	1		1
		carried out in accordance with the	
		conditions laid down in Decision	
		<u>2008/633/JHA.</u>	
3. Europol's designated authority	3. Europol's designated authority /	3. Europol's designated authority	
may submit a reasoned electronic	may submit a reasoned electronic /	may submit a reasoned electronic	
request for the consultation of all	request for the consultation of all	request for the consultation of all	
data or a specific set of data stored in	data or a specific set of data stored in	data or a specific set of data stored in	
the EES to the Europol central access	the EES to the Europol central access	the EES to the Europol central access	
point referred to in Article 27. Upon	point referred to in Article/27. Upon	point referred to in Article 27. Upon	
receipt of a request for access the	receipt of a request for access the	receipt of a request for access the	
Europol central access point shall	Europol central access/point shall	Europol central access point shall	
verify whether the conditions for	verify whether the conditions for	verify whether the conditions for	
access referred to in paragraph 1 are	access referred to in paragraph 1 are	access referred to in paragraphs 1	
fulfilled. If all conditions for access	fulfilled. If all conditions for access	and 2 are fulfilled. If all conditions	
are fulfilled, the duly authorised staff	are fulfilled, the duly authorised staff	for access are fulfilled, the duly	
of the central access point(s) shall	of the central access point(s) shall	authorised staff of the central access	
process the requests. The EES data	process the requests. The EES data	point(s) shall process the requests.	
accessed shall be transmitted to the	accessed shall be transmitted to the	The EES data accessed shall be	
operating units referred to in Article	operating units referred to in Article	transmitted to the operating units	
27 (1) in such a way as not to	27 (1) in such a way as not to	referred to in Article 27 (1) in such a	
compromise the security of the data.	compromise the security of the data.	way as not to compromise the	
		security of the data.	
4. The processing of information	4. The processing of information	4. The processing of information	
obtained by Europol from	obtained by Europol from	obtained by Europol from	
consultation with EES data shall be	consultation with EES data shall be	consultation with EES data shall be	
subject to the authorisation of the	subject to the authorisation of the	subject to the authorisation of the	
Member State of origin. That	Member State of origin. That	Member State of origin. That	
authorisation shall be obtained via	authorisation shall be obtained via	authorisation shall be obtained via	
the Europol national unit of that	the Europol national unit of that	the Europol national unit of that	
Member State.	Member State.	Member State.	

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CHAPTER V	CHAPTER V	CHAPTER V	The discussion on Chapter V will be
Retention and amendment of the	Retention and amendment of the	Retention and amendment of the	taken up at CORPER of 24 May.
data	data	data	
Article 31	Article 31	Article 31	
Retention period for data storage	Retention period for data storage	Retention period for data storage	
1. Each entry/exit record or	1. Each entry/exit record or	1 Each entry/exit record or	
refusal of entry record linked to an	refusal of entry record linked to an	refusal of entry record linked to an	
individual file shall be stored for five	individual file shall be stored <i>in the</i>	individual file shall be stored for five	
years following the date of the exit	EES Central System for five two	years following the date of the exit	
record or of the refusal of entry	years following the date of the exit	record or of the refusal of entry	
record, as applicable.	record or of the refusal of entry	record, as applicable.	
	record, as applicable.		
2. Each individual file together	2. Each individual file together	2. Each individual file together	
with the linked entry/exit record(s) or	with the linked entry/exit record(s) or	with the linked entry/exit record(s) or	
refusal of entry records shall be	refusal of entry records shall be	refusal of entry records shall be	
stored in the EES for five years and	stored in the EES <i>Central System</i> for	stored in the EES for five years and	
one day following the date of the last	<i>two</i> years and one day following the	one day following the date of the last	
exit record if there is no entry record	date of the last exit record if there is	exit record if there is no entry record	
within five years from that last exit	no entry record within <i>two</i> years	within five years from that last exit	
record or refusal of entry record.	from that last exit record or refusal of	record or refusal of entry record.	
	entry record.		
3. If there is no exit record	3. If there is no exit record	3. If there is no exit record	
following the date of expiry of the	following the date of expiry of the	following the date of expiry of the	
authorised period of stay, the data	authorised period of stay, the data	[] period of <u>authorised</u> stay, the	
shall be stored for a period of five	shall be stored for a period of five	data shall be stored for a period of	
years following the last day of the	<i>four</i> years following the last day of	five years following the last day of	
authorised stay. The EES shall	the authorised stay. The In	the authorised stay. The EES shall	
automatically inform the Member	accordance with the information	automatically inform the Member	
States three months in advance of the	mechanism provided for in Article	States three months in advance of the	
scheduled deletion of data on	11, the EES shall automatically	scheduled deletion of data on	
overstayers in order for them to	inform the Member States three	overstayers in order for them to	
adopt the appropriate measures.	months in advance of the scheduled	adopt the appropriate measures that	
	deletion of data on overstayers in	could lead to the detection of the	

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	order for them to adopt the	overstayer and where possible and	
	appropriate measures.	applicable contribute to the return of	
		the overstayer.	
	4. By way of derogation to <i>from</i>	4. By way of derogation of	
	paragraphs (2) and (3), the entry/exit	paragraph(1)[] the entry/exit	
	record(s) generated by third country	record(s) generated by third country	
nationals in their condition of family	nationals in their condition of who	nationals in their condition members	
members of a Union citizen to whom	are family members of a Union	of family [] of a Union citizen to	
Directive 2004/38/EC applies or of a	citizen to whom Directive	whom Directive 2004/38/EC applies	
national of a third country enjoying	2004/38/EC applies or of a national	or of a national of a third country	
the right of free movement under	of a third country enjoying the right	enjoying the right of free movement	
Union law and who do not hold a	of free movement under Union law	under Union law and who do not	
residence card referred to under	and who do not hold a residence card	hold a residence card referred to	
Directive 2004/38/EC, shall be	referred to under Directive	under Directive 2004/38/EC, shall be	
stored in the EES for a maximum of	2004/38/EC, shall be stored in the	stored in the EES for a maximum of	
one year after the last exit record.	EES for a maximum of one year after	one year after the last exit record. If	
	the last exit record.	there is no exit record the data shall	
		be stored for a period of five years	
		from the last entry record.	
5. Upon expiry of the retention	5. Upon expiry of the retention	5. Upon expiry of the retention	
period referred to in paragraphs 1	period referred to in paragraphs 1	period referred to in paragraphs	
and 2 such data shall automatically	and 2 to 4 such data shall	1[], 2 and 4 such data shall	
be erased from the Central System	automatically be erased from the	automatically be erased from the	
	Central System.	Central System.	
Article 32	Article 32	Article 32	
Amendment of data and advance	Amendment o f da ta and advance	Amendment of data and advance	
data deletion	data deletion	data deletion	
1. The Member State responsible	1. The Member State responsible	1. The Member State responsible	
shall have the right to amend data	shall have the right to amend data	shall have the right to amend data	
which it has introduced into the EES,	which it has introduced into the EES,	which it has introduced into the EES,	
by correcting or deleting such data.	by correcting or deleting rectifying,	by correcting or deleting such data.	
	completing or erasing such data.	-	

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

of 14 days and the Member State responsible shall check the accuracy of the data and the lawfulness of its processing within a time limit of one month. This may also be done at the request of the person concerned in accordance with Article 46.	State responsible within a time limit of 7 <i>days</i> and the Member State responsible shall check the accuracy of the data and the lawfulness of its processing within a time limit of one month 14 <i>days</i> . This may also be done at the request of the person concerned in accordance with Article 46.	of 14 days and the Member State responsible shall check the accuracy of the data and the lawfulness of its processing within a time limit of one month. This may also be done at the request of the person concerned in accordance with Article 46.	
4. In the event that the Member	 4. In the event that the Member	4. In the event that [] <u>a</u>	
State responsible or a Member State	State responsible or a Member State	Member State [] has evidence to	
other than the Member State	other than the Member State	suggest that visa-related data	
responsible has evidence to suggest	responsible has evidence to suggest	recorded in the EES are factually	
that visa-related data recorded in the	that visa-related data recorded in the	inaccurate or that such data were	
EES are factually inaccurate or that	EES are factually inaccurate,	processed in the EES in	
such data were processed in the EES	<i>incomplete</i> or that such data were	contravention of this Regulation they	
in contravention of this Regulation	processed in the EES in	shall first check the accuracy of these	
they shall first check the accuracy of	contravention of this Regulation they	data against the VIS and if necessary	
these data against the VIS and if	shall first check the accuracy of these	shall amend them in the EES. Should	
necessary shall amend them in the	data against the VIS and if necessary	the data recorded in the VIS be the	
EES. Should the data recorded in the	shall amend rectify, complete or	same as in the EES, they shall inform	
VIS be the same as in the EES, they	erase them in the EES. Should the	the Member State responsible for	
shall inform the Member State	data recorded in the VIS be the same	entering those data in the VIS	
responsible for entering those data in	as in the EES, they shall inform the	immediately through the	
the VIS immediately through the	Member State responsible for	infrastructure of the VIS in	
infrastructure of the VIS in	entering those data in the VIS	accordance with Article 24(2) of	
accordance with Article 24(2) of	immediately through the	Regulation (EC) No 767/2008. The	
Regulation (EC) No 767/2008. The	infrastructure of the VIS in	Member State responsible for	
Member State responsible for	accordance with Article 24(2) of	entering the data in the VIS shall	
entering the data in the VIS shall	Regulation (EC) No 767/2008. The	check the data concerned and if	
check the data concerned and if	Member State responsible for	necessary correct or delete them	
necessary correct or delete them	entering the data in the VIS shall	immediately from the VIS and	
immediately from the VIS and	check the data concerned and if	inform the Member State []	

 inform the Member State responsible or the Member State responsible or arease them immediately from the VIS and inform the Member State responsible or the Member State to which the request has been made which shall, if inccessary, amend or delete <i>rectify</i>, tables to which the request has been made which shall, if inccessary, amend or delete <i>rectify</i>, tables to which the request has been made which shall, if inccessary, amend or delete <i>rectify</i>, tables to which the request has been made which shall, if inccessary, amend or delete <i>rectify</i>, tables to which the request has been made which shall, if inccessary, amend or delete <i>rectify</i>, tables to which the request has been made which shall, if inccessary, amend or delete <i>rectify</i>, tables to which the request has been made which shall, if inccessary, amend or delete <i>rectify</i>, tables to which the request has been made which shall, if inccessary amend or delete <i>rectify</i>, tables to which the request has been made which shall, if inccessary amend or delete <i>rectify</i>, tables to which the request has been made which shall, if inccessary amend or delete <i>rectify</i>, tables to which the request has been made, that he or she was forced to a that Article and shall be corrected <i>rectified</i> or in accordance with the national law of the Member State responsible or of the Me	informathe Member State mean angible	na a a a a a dalata na a tif u	concomed which shall if according	
request has been made which shall, if necessary, amend or delete them Member State to which the request has been made which shall, if necessary, amend or delete to member of the request has been made which shall, if necessary, amend or delete rectify, complete or erase them from the EES without delay and, where applicable, from the list of identified every appears persons referred to in Article 11. 5. The data of identified persons referred to in Article 11 shall be deleted without delay from the list referred to in Article 11 shall be deleted without delay from the list referred to in Article 11 shall be deleted without delay from the list referred to in that Article and shall be corrected in the EES where the third country national provides evidence, in accordance with the national law of the Member State to which the request has been made, that he or she was forced to exceed the authorised duration of stay due to unforesceable and serious events, that he or she mas caquired a legal right to stay or in case of errors. The third country national shall have access to an effective judicial remedy to ensure the data is amended.	1			
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the data is amended rectified,	5 5			
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6. Where a third country national has acquired the nationality of a Member State or has fallen under the scope of Article 2(3) before the expiry of the period referred to in Article 31, the individual file and the records linked to it in accordance with Articles 14 and 15 shall be	6. Where a third country national has acquired the nationality of a Member State or has fallen under the scope of Article 2(3) before the expiry of the period referred to in Article 31, the individual file and the records linked to it in accordance with Articles 14 and 15 shall <i>without</i>	6. Where a third country national has acquired the nationality of a Member State or has fallen under the scope of Article 2(3) before the expiry of the period referred to in Article 31, the individual file and the <u>entry/exit</u> records linked to it in accordance with Articles 14 and 15	
deleted without delay from the EES	delay and in any event no later than	<u>and refusal of entry records in</u>	
as well as, where applicable, from	48 hours from the moment the	<u>accordance with Article 16</u> shall be	
the list of identified persons referred	relevant Member State becomes	deleted without delay from the EES	
to in Article 11:	aware of that fact, be deleted	as well as, where applicable, from	
	without delay from the EES as well as, where applicable, from the list of identified persons referred to in Article 11:	the list of identified persons referred to in Article 11:	
(a) by the Member State the	(a) by the Member State the	(a) by the Member State the	
nationality of which he or she has	nationality of which he or she has	nationality of which he or she has	
acquired, or	acquired, or	acquired, or	
(b) the Member State that issued the residence permit or card.	(b) the Member State that issued the residence permit or card.	(b) the Member State that issued the residence permit or card <u>or long</u> stay visa.	
Where a third country national has	Where a third country national has	Where a third country national has	
acquired the nationality of Andorra,	acquired the nationality of Andorra,	acquired the nationality of Andorra,	
Monaco or San Marino he or she	Monaco or San Marino he or she	Monaco, [] San Marino <u>or where</u>	
shall inform the competent	shall inform the competent	<u>the third country national is in a</u>	
authorities of the Member State he or	authorities of the Member State he or	<u>possession of a passport issued by</u>	
she next enters of this change. That	she next enters of this change. That	<u>the Vatican City State</u> he or she shall	
Member State shall delete their data	Member State shall delete their data	inform the competent authorities of	
without delay from the EES. The	without delay from the EES. The	the Member State he or she next	
individual shall have access to an	individual shall have access to an	enters of this change. That Member	
effective judicial remedy to ensure	effective judicial remedy to ensure	State shall delete their data without	
the data is deleted.	the data is deleted.	delay from the EES. The individual	



		shall have access to an effective	
		judicial remedy to ensure the data is	
		deleted.	
7. The Central System shall	7. The Central System shall	7. The Central System shall	
immediately inform all Member	immediately inform all Member	immediately inform all Member	
States of the erasure of data from the	States of the erasure of data from the	States of the erasure of data from the	
EES and where applicable from the	EES and where applicable from the	EES and where applicable from the	
list of identified persons referred to	list of identified persons referred to	list of identified persons referred to	
in Article 11.	in Article 11.	in Article 11.	
		<u>8.</u> In case another Member State	
		than the Member State responsible	
		has amended or erased data in	
		accordance with this Regulation, this	
		Member State shall be responsible	
		for the amendments or erasure. The	
		system will record all amendments	
		and erasures applied.	

CHAPTER VI	CHAPTER VI	CHAPTER VI	
Development, Operation and	Development, Operation and	Development, Operation and	
Responsibilities	Responsibilities	Responsibilities	
Article 33	Article 33	Article 33	
Adoption of implementing measures	Adoption of implementing measures	Adoption of implementing measures	
by the Commission prior to	by the Commission prior to	by the Commission prior to	
development	development	development	
The Commission shall adopt the	The Commission shall adopt the	The Commission shall adopt the	Provisionally agreed:
following measures necessary for the	following measures necessary for the	following measures necessary for the	The Commission shall adopt the
development and technical	development and technical	development and technical	following measures necessary for the
implementation of the Central	implementation of the Central	implementation of the Central	development and technical
System, the National Uniform	System, the National Uniform	System, the National Uniform	implementation of the Central
Interfaces, and the Communication	Interfaces, and the secure and	Interfaces, and the Communication	System, the National Uniform
Infrastructure, in particular measures	encrypted Communication	Infrastructure, in particular measures	Interfaces, and the Communication
for:	Infrastructure, in particular measures	for:	Infrastructure, in particular measures
	for:		for:
(a) the specifications for the	(a) the specifications for the	(a) the specifications for the	Provisionally:
resolution and use of fingerprints for	resolution and use of fingerprints for	<u>quality</u> , resolution and use of	a) the specifications for the
biometric verification and	biometric verification and	fingerprints for biometric verification	quality, resolution and use of
identification in the EES;	identification in the EES;	and identification in the EES;	fingerprints for biometric verification
			and identification in the EES;
	(aa) the quality standard and		EP to revert (the facial image from
	specifications for the use of the		the VIS cannot be used for biometric
	facial image including where		matching)
	extracted electronically from the		
	eMRTD or the VIS;		
		(a1) the specifications for the	Linked to outcome of (aa)
		quality, resolution and use of facial	
		image for biometric verification and	
		identification in the EES;	
(b) entering the data in accordance	(b) entering the data in accordance	(b) entering the data in accordance	
with Article 14, 15, 16, 17 and 18;	with Article 14, 15, 16, 17 and 18;	with Article 14, 15, 16, 17 and 18;	

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advance deleting of data in accordance with Article 32; advance deleting of data in accordance with Article 32; (e) keeping and accessing the records in accordance with Article 41; (e) keeping and accessing the records in accordance with Article 41; (f) performance requirements; (f) performance requirements; (f) performance requirements; (f) performance requirements; (f) performance requirements, including minimal specifications for technical equipment and requirements on the biometric performance of the ES in particular in terms of the required False Positive Identification Rate, False Negative Identification Rate, False Neg				
(d) amending, deleting and advance deleting of data in accordance with Article 32; (d) amending, deleting and advance deleting of data in accordance with Article 32; (e) keeping and accessing the records in accordance with Article 32; (e) keeping and accessing the records in accordance with Article 32; (f) performance requirements; (f) performance requirements; (f) performance requirements; (f) performance requirements; (f) performance requirements; (f) performance requirements, including minimal specifications for technical equipment and requirements on the biometric performance of the EES in particular in terms of the required False Positive Identification Rate, False Negative Identification Rate, and Failure to Enrol Rate; (g) the specifications and conditions for the web-service referred to in Article 12; (g) the specifications for the web-service referred to in Article 12, including provisions for the protection of the data where provided by or to carriers; (g) the specifications and conditions for the web-service referred to in Article 12, including provisions for the web-service referred to in Article 44(3); (i) the specifications and conditions for the web-service referred to in Article 44(3); (h) the common leaflet referred to in Article 44(3); (i) the specifications and conditions for the websile-referred to in Article 44(3); (i) the specifications and conditions for the websile-referred to in Article 44(3);				
advance deleting of data in accordance with Article 32; advance deleting of data in accordance with Article 32; (c) keeping and accessing the records in accordance with Article 41; (c) keeping and accessing the records in accordance with Article 41; Provisionally agreed: (f) performance requirements; (f) performance requirements; (f) performance requirements; (f) performance requirements; including minimal specifications for technical equipment and requirements on the biometric performance of the EES in particular in terms of the required False Positive Identification Rate, False Negative Identification R		· · · · · · · · · · · · · · · · · · ·		
accordance with Article 32; accordance with Article 32; accordance with Article 32; (e) keeping and accessing the records in accordance with Article 41; (f) performance requirements; (f) performance requirements, including minimal specifications for technical equipment and requirements on the biometric performance of the EES in particular in terms of the required False Positive Identification Rate, False Negative Identification Rate, False Negative Identification Rate, False Negative Identification for the web-service referred to in Article 12; (g) the specifications and conditions for the web-service referred to in Article 12, including provisions for the protection of the data where provisided by or to carriers; (g) the specifications and conditions for the web-service referred to in Article 44(3); (i) the specifications and conditions for the web-service referred to in Article 44(3); (i) the specifications and conditions for the web-service referred to in Article 44(3); (i) the specifications and conditions for the web-service referred to in Article 44(3); (i) the specifications and conditions for the web-service referred to in Article 44(3); (i) the specifications and conditions for the web-service referred to in Article 44(3); See Art. 44(3)				
(e) keeping and accessing the records in accordance with Article (e) keeping and accessing the records in accordance with Article (f) performance requirements; (f) performance requirements; (f) performance requirements, including minimal specifications for requirements on the biometric Provisionally agreed: (g) the specifications and conditions for the web-service referred to in Article 12; (g) the specifications and conditions for the web-service referred to in Article 12; (g) the specifications and conditions for the protection of the data where provisided by or to carriers; (g) the specifications and conditions for the web-service referred to in Article 44(3); (h) the common leaflet referred to in Article 44(3); (i) the specifications and conditions for the website referred to in Article 44(3); (i) the specifications and conditions for the website referred to in Article 44(3); (i) the specifications and conditions for the website referred to in Article 44(3); (i) the specifications and conditions for the website referred to in Article 44(3); (i) the specifications and conditions for the website referred to in Article 44(3); (i) the specifications and conditions for the website referred to in Article 44(3); (i) the specifications and conditions for the website referred to in Article 44(3); (i) the specifications and conditions for the website referred to in Article 44(3); (i) the specifications and conditions for the website referred to in Article 44(3); (i) the specifications and conditions for the website referred to in Article 44(3); (i) the specifications and conditions for the website referred to in Article 44(3); <t< td=""><td>advance deleting of data in</td><td>advance deleting of data in</td><td>advance deleting of data in</td><td></td></t<>	advance deleting of data in	advance deleting of data in	advance deleting of data in	
records in accordance with Article 41: (f) performance requirements; (f) performance requirements, including minimal specifications for technical equipment and requirements on the biometric performance of the EES in particular in terms of the required False Positive Identification Rate, False Negative Identification Rate, False Positive Identification Rate, False Negative Identification Rate, False Negative Identification Rate, False Positive Identification Rate, False Positive Identification Rate, False Negative Identification Rate, False Positive Identification Rate, False Po	accordance with Article 32;	accordance with Article 32;	accordance with Article 32;	
41: 41: 41: (f) performance requirements; (f) performance requirements; (f) performance requirements, including minimal specifications for technical equipment and requirements of the EES in particular in terms of the required False Positive Identification Rate, False Negative Identifications and conditions for the web-service referred to in Article 12, including provisions for the provision of the data where provided by or to carriers; (h) the common leaflet referred to Article 44(3); (h) the specifications and conditions for the websile-referered to in Article 14(3); </td <td>(e) keeping and accessing the</td> <td>(e) keeping and accessing the</td> <td>(e) keeping and accessing the</td> <td></td>	(e) keeping and accessing the	(e) keeping and accessing the	(e) keeping and accessing the	
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including minimal specifications for technical equipment and requirements on the biometric performance of the EES in particular in terms of the required False Positive Identification Rate, False Negative Identification Rate, False Negative Identification Rate and Failure to Enrol Rate;(f) performance requirements, including minimal specifications for technical equipment and requirements on the biometric performance of the EES in particular in terms of the required False Positive Identification Rate and Failure to Enrol Rate;(f) performance requirements, including minimal specifications for technical equipment and requirements on the biometric performance of the EES in particular in terms of the required False Positive Identification Rate and Failure to Enrol Rate;(g) the specifications and conditions for the web-service referred to in Article 12, <i>including provisions for the protection of the data where provided by or to carriers;</i> (g) the specifications and conditions for the web-service referred to Article 44(3);(g) the specifications and conditions for the website referred to in Article 44(3);Provisionally agreed: (g) the specifications and conditions for the website referred to in Article 44(3);(h) the common leaflet referred to in Article 44(3);(h) the common leaflet referred to conditions for the website referred to in Article 44(3);See Art. 44(3)(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the provision of information in writing, and inSee Art. 44(3)	41;	41;	41;	
including minimal specifications for technical equipment and requirements on the biometric performance of the EES in particular in terms of the required False Positive Identification Rate, False Negative Identification Rate, False Negative Identification Rate and Failure to Enrol Rate;(f) performance requirements, including minimal specifications for technical equipment and requirements on the biometric performance of the EES in particular in terms of the required False Positive Identification Rate and Failure to Enrol Rate;(f) performance requirements, including minimal specifications for technical equipment and requirements on the biometric performance of the EES in particular in terms of the required False Positive Identification Rate and Failure to Enrol Rate;(g) the specifications and conditions for the web-service referred to in Article 12, <i>including provisions for the protection of the data where provided by or to carriers;</i> (g) the specifications and conditions for the web-service referred to Article 44(3);(g) the specifications and conditions for the website referred to in Article 44(3);Provisionally agreed: (g) the specifications and conditions for the website referred to in Article 44(3);(h) the common leaflet referred to in Article 44(3);(h) the common leaflet referred to conditions for the website referred to in Article 44(3);See Art. 44(3)(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the provision of information in writing, and inSee Art. 44(3)	(f) performance requirements;	(f) performance requirements;	(f) performance requirements,	Provisionally agreed:
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requirements on the biometric performance of the EES in particular in terms of the required False Positive Identification Rate, False Negative Identification Rate, False 			technical equipment and	including minimal specifications for
performance of the EES in particular in terms of the required False Positive Identification Rate, False Negative Identifications and conditions for the web-service referred to in Article 12, including specific provisions for the web-service referred to in Article 12, including specific provisions for the web-service referred to in Article 14(3);(h) the common leaflet referred to in Article 44(3);(i) the specifications and conditions fo				e i
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Failure to Enrol Rate;Negative Identification Rate and Failure to Enrol Rate;(g) the specifications and conditions for the web-service referred to in Article 12;(g) the specifications and conditions for the web-service referred to in Article 12, <i>including</i> <i>provisions for the protection of the</i> <i>data where provided by or to</i> <i>carriers</i> ;(g) the specifications and conditions for the web-service referred to in Article 12, <i>including</i> <i>provisions for the protection of the</i> <i>data where provided by or to</i> <i>carriers</i> ;(g) the specifications and conditions for the web-service referred to in Article 12, <i>including</i> <i>provisions for the protection of the</i> <i>data where provided by or to</i> <i>carriers</i> ;(g) the specifications and conditions for the web-service referred to Article 44(3);(h) the common leaflet referred to Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);See Art. 44(3)			Negative Identification Rate and	Positive Identification Rate, False
(g) the specifications and conditions for the web-service referred to in Article 12;(g) the specifications and conditions for the web-service referred to in Article 12, including provisions for the protection of the data where provided by or to carriers;(g) the specifications and conditions for the web-service referred to in Article 12, including provisions for the protection of the data where provided by or to carriers;(g) the specifications and conditions for the web-service referred to in Article 12, including provisions for the protection of the data where provided by or to carriers;(g) the specifications and conditions for the web-service referred to article 44(3);Provisionally agreed: (g) the specifications and conditions for the web-service referred to Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(ii) the specifications and conditions for the website referred to in Article 44(3);See Art. 44(3)			Failure to Enrol Rate;	Negative Identification Rate and
conditions for the web-service referred to in Article 12;conditions for the web-service referred to in Article 12, including provisions for the protection of the data where provided by or to carriers;conditions for the web-service referred to in Article 12, including specific provisions for the protection of the data where provided by or to carriers;conditions for the web-service referred to in Article 12, including specific provisions for the protection of the data where provided by or to carriers;conditions for the web-service referred to in Article 12;(g) the specifications and conditions for the web-service referred to in Article 12;(h) the common leaflet referred to Article 44(3);(h) the common leaflet referred to Article 44(3);See Art. 44(3)(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);				0
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referred to in Article 12;referred to in Article 12, including provisions for the protection of the data where provided by or to carriers;referred to in Article 12;conditions for the web-service referred to in Article 12, including specific provisions for the protection of the data where provided by or to carriers;(h) the common leaflet referred to Article 44(3);(h) the common leaflet referred to Article 44(3);(h) the common leaflet referred to Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);See Art. 44(3)	conditions for the web-service			
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data where provided by or to carriers;specific provisions for the protection of the data where provided by or to carriers;(h) the common leaflet referred to Article 44(3);(h) the common leaflet referred to Article 44(3);See Art. 44(3)(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);See Art. 44(3)			,	
carriers;protection of the data where provided by or to carriers;(h) the common leaflet referred to Article 44(3);(h) the common leaflet referred to Article 44(3);See Art. 44(3)(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);See Art. 44(3)				
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Article 44(3);Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to information in writing, and inSee Art. 44(3)	(h) the common leaflet referred to	(h) the common leaflet referred to		
(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the website referred to in Article 44(3);(i) the specifications and conditions for the provision of information in writing, and inSee Art. 44(3)				
conditions for the website referred to in Article 44(3);conditions for the website referred to in Article 44(3);conditions for the provision of information in writing, and in			(i) the specifications and	See Art. 44(3)
in Article 44(3); in Article 44(3); information in writing, and in	conditions for the website referred to			
	in Article 44(3);			
another effective way [] referred to [another effective way [] referred to	
in Article 44(3);			• • •	



(j) the establishment and the high	(j) the establishment and the high	(j) the establishment and the high	
level design of the interoperability	level design of the interoperability	level design of the interoperability	
referred to in Article 7;	referred to in Article 7;	referred to in Article 7;	
(k) for the specifications and	(k) for the specifications and	(k) for the specifications and	
conditions for the central repository	conditions for the central repository	conditions for the central repository	
referred in Article 57 (2).	referred in Article 57 (2).	referred in Article 57 (2);	
		(1) adopt a decision on the date	<i>EP to revert</i>
		from which the EES is to start	
		operations, after the conditions	Commission does not see the need
		referred to in Article 60 are met;	for an implementing act, because
		<u>.</u>	once conditions under Art. 60 are
			fulfilled, the EES should start
			operating.
		(m) the establishment of the list	<i>EP to revert</i>
		referred to in Article 11(2) and	Presidency suggests the following
		procedure for distribution of the list	wording in line with wording used in
		to Member States;	Art. 11(2):
		to member states,	(m) the establishment of the list
			referred to in Article 11(2) and
			procedure to make the list available
			to Member States;
		(n) the encodification for technical	Provisionally agreed:
		(n) the specification for technical solutions to connect central access	
			(n) the specification for technical solutions to connect central access
		points in accordance with Articles 28	
		and 29 and for a technical solution to	points in accordance with Articles 28
		collect the statistical data required in	and 29 and for a technical solution to
		accordance with Article 64(8).	collect the statistical data required in
			accordance with Article 64(8).
Those implementing acts shall be	Those implementing acts shall be	Those implementing acts shall be	Accepted by delegations:
adopted in accordance with the	adopted in accordance with the	adopted as soon as possible in	Those implementing acts shall be
examination procedure referred to in	examination procedure referred to in	accordance with the examination	adopted in accordance with the
Article 61(2).	Article 61(2).	procedure referred to in Article	examination procedure referred to in
For the adoption of the measures set	For the adoption of the measures set	61(2).	Article 61(2).



down for the establishment and the	down for the establishment and the	For the adoption of the measures set	For the adoption of the measures set
high level design of the	high level design of the	down for the establishment and the	down for the establishment and the
interoperability specified in point (j),	interoperability specified in point (j),	high level design of the	high level design of the
the Committee set up by Article 61	the Committee set up by Article 61	interoperability specified in point (j),	interoperability specified in point (j),
of this Regulation shall consult the	of this Regulation shall consult the	the Committee set up by Article 61	the Committee set up by Article 61
VIS Committee set up by Article 49	VIS Committee set up by Article 49	of this Regulation shall consult the	of this Regulation shall consult the
of Regulation (EC) 767/2008.	of Regulation (EC) 767/2008.	VIS Committee set up by Article 49	VIS Committee set up by Article 49
		of Regulation (EC) 767/2008.	of Regulation (EC) 767/2008.
Article 34	Article 34	Article 34	
Development and operational	Development and operational	Development and operational	
management	management	management	
1. eu-LISA shall be responsible	eu-LISA shall be responsible for the	1. eu-LISA shall be responsible	Provisionally agreed except text in []
for the development of the Central	development of the Central System,	for the development of the Central	brackets:
System, the National Uniform	the National Uniform Interfaces, the	System, the National Uniform	1. eu-LISA shall be responsible
Interfaces, the Communication	secure and encrypted	Interfaces, the Communication	for the development of the Central
Infrastructure and the Secure	Communication Infrastructure and	Infrastructure and the Secure	System, the National Uniform
Communication Channel between	the Secure Communication Channel	Communication Channel between	Interfaces, the Communication
the EES Central System and the VIS	between the EES Central System and	the EES Central System and the VIS	Infrastructure and the Secure
Central System. It shall also be	the VIS Central System. It shall also	Central System. It shall also be	Communication Channel between
responsible for the development of	be responsible for the development	responsible for the development of	the EES Central System and the VIS
the web service referred to in Article	of the web service referred to in	the web service referred to in Article	Central System. It shall also be
12 in accordance with the	Article 12 in accordance with the	12 in accordance with the	responsible for the development of
specifications and conditions adopted	specifications and conditions adopted	specifications and conditions adopted	the web service referred to in Article
in accordance with the examination	in accordance with the examination	in accordance with the examination	12 and the data repository to in
procedure referred to in Article	procedure referred to in Article	procedure referred to in Article	Article 57(2) in accordance with the
61(2).	61(2).	61(2).	specifications and conditions adopted
eu-LISA shall define the design of	eu-LISA shall define the design of	eu-LISA shall define the design of	in accordance with the examination
the physical architecture of the	the physical architecture of the	the physical architecture of the	procedure referred to in Article
system including its Communication	system including its secure and	system including its Communication	61(2).
Infrastructure as well as the technical	encrypted Communication	Infrastructure as well as the technical	eu-LISA shall define the design of
specifications and their evolution as	Infrastructure as well as the technical	specifications and their evolution as	the physical architecture of the
regards the Central System, the	specifications and their evolution as	regards the Central System, the	system including its Communication
Uniform Interfaces, the Secure	regards the Central System, the	Uniform Interfaces, the Secure	Infrastructure as well as the technical



Communication Channel between	Uniform Interfaces, the Secure	Communication Channel between the	specifications and their evolution as
the EES Central System and the VIS	Communication Channel between	EES Central System and the VIS	regards the Central System, the
Central System and the	the EES Central System and the VIS	Central System and the	Uniform Interfaces, the Secure
Communication Infrastructure,	Central System and the <i>secure and</i>	Communication Infrastructure, which	Communication Channel between
which shall be adopted by the	encrypted Communication	shall be adopted by the Management	the EES Central System and the VIS
Management Board, subject to a	Infrastructure-, which shall be	Board, subject to a favourable	Central System and the
favourable opinion of the	adopted by the Management Board,	opinion of the Commission. eu-LISA	Communication Infrastructure, the
Commission. eu-LISA shall also	subject to a favourable opinion of the	shall also implement any necessary	web service referred to in Article 12
implement any necessary adaptations	Commission. eu-LISA shall also	adaptations to the VIS deriving from	and the data repository referred to
to the VIS deriving from the	implement any necessary adaptations	the establishment of interoperability	Article 57(2), [which shall be
establishment of interoperability with	to the VIS deriving from the	with the EES as well as from the	adopted by the Management Board,
the EES as well as from the	establishment of interoperability with	implementation of the amendments	subject to a favourable opinion of the
implementation of the amendments	the EES as well as from the	to Regulation (EC) No 767/2008	Commission.] eu-LISA shall also
to Regulation (EC) No 767/2008	implementation of the amendments	referred to in Article 55.	implement any necessary adaptations
referred to in Article 55.	to Regulation (EC) No 767/2008	eu-LISA shall develop and	to the VIS deriving from the
eu-LISA shall develop and	referred to in Article 55.	implement the Central System, the	establishment of interoperability with
implement the Central System, the	eu-LISA shall develop and	National Uniform Interfaces, the	the EES as well as from the
National Uniform Interfaces, the	implement the Central System, the	Secure Communication Channel	implementation of the amendments
Secure Communication Channel	National Uniform Interfaces, the	between the EES Central System and	to Regulation (EC) No 767/2008
between the EES Central System and	Secure Communication Channel	the VIS Central System, and the	referred to in Article 55.
the VIS Central System, and the	between the EES Central System and	Communication Infrastructure as	eu-LISA shall develop and
Communication Infrastructure as	the VIS Central System, and the	soon as possible after the entry into	implement the Central System, the
soon as possible after the entry into	secure and encrypted	force of this Regulation and the	National Uniform Interfaces, the
force of this Regulation and the	Communication Infrastructure as	adoption by the Commission of the	Secure Communication Channel
adoption by the Commission of the	soon as possible after the entry into	measures provided for in Article 33.	between the EES Central System and
measures provided for in Article 33.	force of this Regulation and the	The development shall consist of the	the VIS Central System, and the
The development shall consist of the	adoption by the Commission of the	elaboration and implementation of	Communication Infrastructure, the
elaboration and implementation of	measures provided for in Article 33.	the technical specifications, testing	web service referred to in Article 12
the technical specifications, testing		and overall project coordination.	and the data repository referred to
and overall project coordination.			Article 57(2) as soon as possible
			after the entry into force of this
			Regulation and the adoption by the



-	leveloping and implementing	Commission of the measures provided for in Article 33. The development shall consist of the elaboration and implementation of the technical specifications, testing and overall project coordination. <i>EP explained that this wording is</i>
Unij Com the I VIS and	Central System, the National form Interfaces, the Secure munication Channel between EES Central System and the Central System, and the secure encrypted Communication astructure, eu –LISA shall:	taken from EDPS Opinion (points 46 and 47). LIBE compromise proposal: By developing and implementing the Central System, the National Uniform Interfaces, the Secure Communication Channel between the EES Central System and the VIS Central System, and the Communication Infrastructure, eu– LISA shall:
(a) part	perform a risk assessment as of the development of the EES;	LIBE compromise proposal: (a) perform a <i>security</i> risk assessment <i>prior to</i> as part of-the development of the EES;
duri	follow the principles of acy by design and by default ng the entire lifecycle of the em development;	LIBE compromise proposal: (b) follow the principles of privacy by design and by default during the entire lifecycle of the system development;
cont up b	update the risk assessment for VIS to take into account the new nection with the EES and follow y implementing any additional writy measures highlighted by	LIBE compromise proposal: (c) conduct a security risk assessment regarding the interoperability with the VIS referred to in Article 7 and assess



	<i>the updated risk assessment.</i> The development shall consist of the		the required security measures needed for its implementation. update the risk assessment for the VIS to take into account the new connection with the EES and follow up by implementing any additional security measures highlighted by the updated risk assessment.
	elaboration and implementation of		
	the technical specifications, testing		
	and overall project coordination.		
2. During the designing and	2. During the designing and	2. During the designing and	Provisionally agreed:
development phase, a Programme	development phase, a Programme /	development phase, a Programme	2. During the designing and
Management Board composed of a	Management Board composed of /a	Management Board composed of a	development phase, a Programme
maximum of 10 members shall be	maximum of 10 members shall be	maximum of 10 members shall be	Management Board composed of a
established. It shall be composed of	established. It shall be composed of	established. It shall be composed of	maximum of 10 members shall be
eight members appointed by eu-	eight members appointed by eu-	[] <u>seven</u> members appointed by	established. It shall be composed of
LISA's Management Board from	LISA's Management Board from	eu-LISA's Management Board from	seven members appointed by eu-
among its members, the Chair of the	among its members, the Chair of the	among its members or their	LISA's Management Board from
EES Advisory Group referred to in	EES Advisory Group referred to in	<u>alternates</u> , the Chair of the EES	among its members or their
Article 62 and one member	Article 62 and one member	Advisory Group referred to in Article	alternates, the Chair of the EES
appointed by the Commission. The	appointed by the Commission. The	62, <u>a member representing eu-LISA</u>	Advisory Group referred to in Article
members appointed by eu-LISA's	members appointed by eu-LISA's	appointed by its Executive Director	62, <u>a member representing eu-LISA</u>
Management Board shall be elected	Management Board shall be elected	and one member appointed by the	appointed by its Executive Director
only from those Member States	only from those Member States	Commission. The members	and one member appointed by the
which are fully bound under Union	which are fully bound under Union	appointed by eu-LISA's Management	Commission. The members
law by the legislative instruments	law by the legislative instruments	Board shall be elected only from	appointed by eu-LISA's Management
governing the development,	governing the development,	those Member States which are fully	Board shall be elected only from
establishment operation and use of	establishment operation and use of	bound under Union law by the	those Member States which are fully
all the large-scale IT systems	all the large-scale IT systems	legislative instruments governing the	bound under Union law by the
managed by eu-LISA and which will	managed by eu-LISA and which will	development, establishment	legislative instruments governing the
participate in the EES.	participate in the EES.	operation and use of all the large-	development, establishment



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



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



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



technical specifications.	that the system functions at a satisfactory level of operational quality, in particular as regards the response time for interrogation of the central database by border crossing points, in accordance with the technical specifications.	technical specifications.	Operational management of the EES shall consist of all the tasks necessary to keep the EES functioning 24 hours a day, 7 days a week in accordance with this Regulation, in particular the maintenance work and technical developments necessary to ensure that the system functions at a satisfactory level of operational quality, in particular as regards the response time for interrogation of the
			central database by border crossing points, in accordance with the
			technical specifications.
4. Without prejudice to Article 17 of the Staff Regulations of Officials of the European Union, eu-LISA shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality to its entire staff required to work with	4. Without prejudice to Article 17 of the Staff Regulations of Officials of the European Union, eu-LISA shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality to its antira staff required to work with	4. Without prejudice to Article 17 of the Staff Regulations of Officials of the European Union, eu-LISA shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality to its antira staff required to work with	
its entire staff required to work with EES data. This obligation shall also apply after such staff leave office or employment or after the termination of their activities.	its entire staff required to work with EES data. This obligation shall also apply after such staff leave office or employment or after the termination of their activities.	its entire staff required to work with EES data. This obligation shall also apply after such staff leave office or employment or after the termination of their activities.	

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Article 35	Article 35	Article 35	Provisionally agreed:
Responsibilities of Member States	Responsibilities of Member States	Responsibilities of Member States	Article 35
		and Europol	Responsibilities of Member States
			and Europol
1. Each Member State shall be	1. Each Member State shall be	1. Each Member State shall be	
responsible for:	responsible for:	responsible for:	
(a) the integration of the existing	(a) the integration of the existing	(a) the integration of the existing	Provisionally agreed:
national border infrastructure and the	national border infrastructure and the	national [] infrastructure <u>necessary</u>	(a) the integration of the existing
connection to the National Uniform	connection to the National Uniform	for border check and the connection	national infrastructure necessary for
Interface;	Interface;	to the National Uniform Interface;	border check and the connection to
			the National Uniform Interface;
(b) the organisation, management,	(b) the organisation, management,	(b) the organisation, management,	
operation and maintenance of its	operation and maintenance of its	operation and maintenance of its	
existing national border	existing national border	existing national [] infrastructure	
infrastructure and of its connection to	infrastructure and of its connection to	necessary for border check and of its	
the EES for the purpose of Article 5	the EES for the purpose of Article 5	connection to the EES for the	
excepted points (j), (k) and (l);	excepted points (j), (k) and (l) with	purpose of Article 5 excepted points	
	the exception of Article 5(1a);	(j), (k) and (l);	
(c) the organisation of central	(c) the organisation of central	(c) the organisation of central	
access points and their connection to	access points and their connection to	access points and their connection to	
the National Uniform Interface for	the National Uniform Interface for	the National Uniform Interface for	
the purpose of law enforcement;	the purpose of law enforcement;	the purpose of law enforcement;	
(d) the management and	(d) the management and	(d) the management and	
arrangements for access of duly	arrangements for access of duly	arrangements for access of duly	
authorised staff of the competent	authorised staff of the competent	authorised staff of the competent	
national authorities to the EES in	national authorities to the EES in	national authorities to the EES in	
accordance with this Regulation and	accordance with this Regulation and	accordance with this Regulation and	
to establish and regularly update a	to establish and regularly update a	to establish and regularly update a	
list of such staff and their profiles.	list of such staff and their profiles.	list of such staff and their profiles.	
2. Each Member State shall	2. Each Member State shall	2. Each Member State shall	EP withdrew its amendment
designate a national authority, which	designate a an independent national	designate a national authority, which	Provisionally agreed:
shall provide the competent	supervisory authority, which shall	shall provide the competent	2. Each Member State shall
authorities referred to in Article 8	provide the competent authorities	authorities referred to in Article 8	designate a national authority, which

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with access to the EES. Each Member State shall connect that national authority to the National Uniform Interface. Each Member State and Europol shall connect their respective central access points referred to in Article 26 and 27 to the National Uniform Interface.	referred to in Article 8 with access to the EES. Each Member State shall connect that national authority to the National Uniform Interface. Each Member State and Europol shall connect their respective central access points referred to in Article 26 and 27 to the National Uniform	with access to the EES. Each Member State shall connect that national authority to the National Uniform Interface. Each Member State [] shall connect their respective central access points referred to in Article 26 [] to the National Uniform Interface.	shall provide the competent authorities referred to in Article 8 with access to the EES. Each Member State shall connect that national authority to the National Uniform Interface. Each Member State shall connect their respective central access points referred to in
	Interface.		Article 26 to the National Uniform Interface.
3. Each Member State shall use automated procedures for processing the data.	3. Each Member State shall use automated procedures for processing the data.	3. Each Member State shall use automated procedures for processing the data.	
4. Before being authorised to process data stored in the EES, the staff of the authorities having a right to access the EES shall be given appropriate training about data security and data protection rules in particular and on relevant fundamental rights.	4. Before being authorised to process data stored in the EES, the staff of the authorities having a right to access the EES shall be given appropriate training about data security and data protection rules in particular and on relevant fundamental rights.	4. Before being authorised to process data stored in the EES, the staff of the authorities having a right to access the EES shall be given appropriate training about data security and data protection rules in particular and on relevant fundamental rights.	
	4a. Member States shall not process the data collected in or retrieved from the EES for purposes other than those laid down in this Regulation.		Commission raised concerns on the use of the term "retrieved". Presidency compromise proposal accepted by delegations: Member States shall not process the data <u>recorded</u> in the EES for purposes other than those laid down in this Regulation.
		5. Europol shall assume the responsibilities foreseen under paragraphs 3 and 4. It shall connect its central access point referred to in	Provisionally agreed [subject to agreement on reference to paragraph 4a]: 5. Europol shall assume the

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		Article 27 to the EES and shall be	responsibilities foreseen under
		responsible for that connection.	paragraphs 3, 4 and 4a . It shall
		-	connect its central access point
			referred to in Article 27 to the EES
			and shall be responsible for that
			connection.
Article 36	Article 36	Article 36	Provisionally agreed:
Responsibility for the use of data	Responsibility for the use of data	Responsibility for the use of data	Article 36
	processing		Responsibility for data processing
1. In relation to the processing of	In relation to the processing of	1. In relation to the processing of	In accordance with the wording
personal data in the EES, each	personal data in the EES, each	personal data in the EES, each	under Article 35(4a), the reference to
Member State shall designate the	Member State shall designate the	Member State shall designate the	'data collected and' should be
authority which is to be considered	authority which is to be considered	authority which is to be considered	deleted. Text supported by
as controller in accordance with	as controller in accordance with	as controller in accordance with	delegations:
Article 2(d) of Directive 95/46/EC	Article 2(d) 4(7) of Directive	Article 2(d) of Directive 95/46/EC	1.In relation to the processing of
and which shall have central	95/46/EC Regulation (EU) 2016/679	and which shall have central	personal data in the EES, each
responsibility for the processing of	and which shall have central	responsibility for the processing of	Member State shall designate the
data by this Member State. Each	responsibility for the processing of	data by this Member State. Each	authority which is to be considered
Member State shall communicate the	data by this Member State. Each	Member State shall communicate the	as controller in accordance with
details of this authority to the	Member State shall communicate the	details of this authority to the	Article 4(7) of <i>Regulation (EU</i>)
Commission.	details of this authority to the	Commission.	2016/679 and which shall have
Each Member State shall ensure that	Commission.	Each Member State shall ensure that	central responsibility for the
the data recorded in the EES is	Each Member State shall ensure that	the data recorded in the EES is	processing of data by this Member
processed lawfully, and in particular	the data <i>collected and</i> recorded in	processed lawfully, and in particular	State. Each Member State shall
that only duly authorised staff have	the EES is processed lawfully, and in	that only duly authorised staff have	communicate the details of this
access to the data for the	particular that only duly authorised	access to the data for the	authority to the Commission.
performance of their tasks. The	staff have access to the data for the	performance of their tasks. The	Each Member State shall ensure that
Member State responsible shall	performance of their tasks. The	Member State responsible shall	the data recorded in the EES is
ensure in particular that:	Member State responsible shall	ensure in particular that:	processed lawfully, and in particular
	ensure in particular that:		that only duly authorised staff have
			access to the data for the
			performance of their tasks. The
			Member State responsible shall



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



of the management it tales are and the	of the macauna it tales and the	of the measures it takes are set to	
of the measures it takes pursuant to	of the measures it takes pursuant to	of the measures it takes pursuant to	
paragraph 2 for the start of	paragraph 2 for the start of	paragraph 2 for the start of	
operations of the EES.	operations of the EES.	operations of the EES.	
Article 37	Article 37	Article 37	
Keeping of data in national files and	Keeping of data in national files and	Keeping of data in national files and	
National Entry Exit systems	National Entry Exit systems	National Entry Exit systems	
1. A Member State may keep the	1. Data retrieved from the EES	1. A Member State may keep the	<i>EP amendment reflects Art. 13(1) of</i>
alphanumeric data which that	may be kept in national files only	alphanumeric data which that	the VIS Decision.
Member State entered into the EES,	where necessary in an individual	Member State entered into the EES,	
in accordance with the purposes of	case, in accordance with the	in accordance with the purposes of	LIBE proposal:
the EES in its national files and	purpose of the EES and relevant	the EES in its national files or	1. A Member State may keep the
national entry exit system in full	Union law, in particular on data	national entry and exit system in full	alphanumeric data which that
respect of Union Law.	protection, and for no longer than	respect of Union Law.	Member State entered into the EES,
	necessary in that individual case. A		in accordance with the purposes of
	Member State may keep the		the EES in its national files or
	alphanumeric data which that		national entry / <u>and</u> exit system <i>or</i>
	Member State entered into the EES,		equivalent national files in full
	in accordance with the purposes of		respect of Union Law. Data
	the EES in its national files and		retrieved from the EES for the
			ů ů
	national entry exit system in full		purposes of the EES may be kept in
	respect of Union Law.		national files only where necessary
			in an individual case, in accordance
			with the purpose of the EES and
			relevant Union law, in particular on
			data protection, and for no longer
			than necessary in that individual
			case.
2. The data shall not be kept in	2. The data shall not be kept in	2. The data shall not be kept in	LIBE proposal:
the national files or national	the national files or national	[] national files or national	2. The data shall not be kept in
entry/exit systems longer than it is	entry/exit systems <i>for</i> longer than	entry/exit systems longer than it is	the national files or national
kept in the EES.	strictly necessary for their	kept in the EES.	entry/exit systems, equivalent
	individual purposes and, in any		national files or national files for
	event, for longer than they are kept		longer than strictly necessary for



	in the EES.		<i>their individual purposes and, in</i> <i>any event, for longer than they are</i> kept in the EES.
3. Any use of data which does not	3. Any use of data which does not	3. Any use of data which does not	
comply with paragraph 1 shall be	comply with paragraph 1 shall be	comply with paragraph 1 shall be	
considered a misuse under the	considered a misuse under the	considered a misuse under the	
national law of each Member State	national law of each Member State	national law of each Member State	
as well as Union law.	as well as Union law.	as well as Union law.	
4. This Article shall not be	4. This Article shall not be	4. This Article shall not be	
construed as requiring any technical	construed as requiring any technical	construed as requiring any technical	
adaptation of the EES. Member	adaptation of the EES. Member	adaptation of the EES. Member	
States may keep data in accordance	States may keep data in accordance	States may keep data in accordance	
with this Article at their own cost,	with this Article at their own cost,	with this Article at their own cost,	
risk and with their own technical	risk and with their own technical	risk and with their own technical	
means.	means.	means.	
Article 38	Article 38	Article 38	Discussion on Article 38 & 38a-will
Communication of data to third	Communication of data to third	Communication of data to third	be taken up in COREPER of 24
countries, international	countries, international	countries, international	May.
organisations and private parties	organisations and private parties	organisations and private parties	
1. Data stored in the EES shall	1. Data stored in the EES shall	1. Data stored in the EES shall	
not be transferred or made available	not be transferred or made available	not be transferred or made available	
to a third country, to an international	to a third country, to an international	to a third country, to an international	
organisation or any private party.	organisation or any private party.	organisation or any private party.	
2. By way of derogation from	2. By way of derogation from	2. By way of derogation from	
paragraph 1, the data referred to in	paragraph 1, the data referred to in	paragraph 1, the data referred to in	
Article 14(1)(a), (b) and (c) and	Article $14(1)(a)$, (b) and (c) and	Article 14(1)(a), (b), [] (c) and (f)	
Article 15(1) may be transferred or	Article 15(1) may be transferred or	and Article 15(1)(a), (b), and (c) may	
made available to a third country or	made available to a third country or	be transferred or made available by	
to an international organisation listed	to an international organisation listed	border check authorities or	
in the Annex in individual cases, if	in the Annex in individual cases, if	immigration authorities to a third	
necessary in order to prove the	necessary in order to prove the	country or to an international	
identity of third country nationals for	identity of third country nationals for	organisation listed in the Annex I in	
the purpose of return, only where the	the purpose of return, only where the	individual cases, if necessary in	

following conditions are satisfied:	following conditions are satisfied:	order to prove the identity of third	
Tono wing conditions are subside.	Tono wing conditions are subsided.	country nationals for the purpose of	
		return, only where the following	
		conditions are satisfied:	
(a) the Commission has adopted a	(a) the Commission has adopted a	(a) the Commission has adopted a	
decision on the adequate protection	decision on the adequate protection	decision on the adequate protection	
of personal data in that third country	of personal data in that third country	of personal data in that third country	
in accordance with Article 25(6) of	in accordance with Article $\frac{25(6)}{2}$	in accordance with Article 25(6) of	
Directive 95/46/EC, or a readmission	45(3) of Directive 95/46/EC	Directive 95/46/EC, or a readmission	
agreement is in force between the	<i>Regulation (EU) 2016/679</i> , or a	agreement or any other type of	
Community and that third country, or	readmission agreement is in force	similar arrangement is in force	
Article 26(1)(d) of Directive	between the Community Union and	between [] the European Union or	
	that third country, or Article 26(1)(d)	a Member State and that third	
95/46/EC applies;	of Directive 95/46/EC applies;	$\frac{a \text{ Member State}}{country, or Article 26(1)(d) of}$	
	or Directive 95/46/EC applies;		
(h) the third constant of		Directive 95/46/EC applies;	
(b) the third country or	(b) the third country or	(b) the Member State shall inform	
international organisation agrees to	international organisation <i>explicitly</i>	the third country or international	
use the data only for the purpose for	agrees to use the data <i>and is able to</i>	organisation of the obligation to use	
which they were provided;	guarantee that the data are used	the data only for purposes for which	
	only for the purpose for which they	they were provided; []	
	were provided;		
(c) the data are transferred or	(c) the data are transferred or	(c) the data are transferred or	
made available in accordance with	made available in accordance with	made available in accordance with	
the relevant provisions of Union law,	the relevant provisions of Union law,	the relevant provisions of Union law,	
in particular readmission agreements,	in particular <i>data protection and</i>	in particular readmission agreements	
and the national law of the Member	readmission agreements, and the	and transfer of personal data, and the	
State which transferred or made the	national law of the Member State	national law of the Member State	
data available, including the legal	which transferred or made the data	which transferred or made the data	
provisions relevant to data security	available, including the legal	available, including the legal	
and data protection;	provisions relevant to data security	provisions relevant to data security	
	and data protection;	and data protection;	
(d) the Member State which	(d) the Member State which	(d) []	
entered the data in the EES has given	entered the data in the EES has given		



its consent.	its consent and the individual		
	concerned has been informed that		
	his or her personal information may		
	be shared with the authorities of a		
	third country; and		
	(da) a final decision ordering the		
	return of the third-country national		
	has been issued by the appropriate		
	competent authority of the Member		
	State in which the third-country		
	national has been staying.		
3. Transfers of personal data to	3. Transfers of personal data to	3. Transfers of personal data to	
third countries or international	third countries or international	third countries or international	
organisations pursuant to paragraph	organisations pursuant to paragraph	organisations pursuant to paragraph	
2 shall not prejudice the rights of	2 shall not prejudice the rights of	2 shall not prejudice the rights of	
applicants for and beneficiaries of	applicants for and beneficiaries of	applicants for and beneficiaries of	
international protection, in particular	international protection, in particular	international protection, in particular	
as regards non-refoulement.	as regards non-refoulement.	as regards non-refoulement.	
4. Personal data obtained from	4. Personal data obtained from	4. Personal data obtained from	
the Central System by a Member	the Central System by a Member	the Central System by a Member	
State or by Europol for law	State or by Europol for law	State or by Europol for law	
enforcement purposes shall not be	enforcement purposes shall not be	enforcement purposes shall not be	
transferred or made available to any	transferred or made available to any	transferred or made available to any	
third country, international	third country, international	third country, international	
organisation or private entity	organisation or private entity	organisation or private entity	
established in or outside the Union.	established in or outside the Union.	established in or outside the Union.	
The prohibition shall also apply if	The prohibition shall also apply if	The prohibition shall also apply if	
those data are further processed at	those data are further processed at	those data are further processed at	
national level or between Member	national level or between Member	national level or between Member	
States within the meaning of Article	States within the meaning of Article	States within the meaning of Article	
2(b) of Framework Decision	2(b) of Framework Decision	2(b) of Framework Decision	
2008/977/JHA.	2008/977/JHA pursuant to Directive	2008/977/JHA.	
	(EU) 2016/680.		



<u>4a.</u> <u>By way of derogation from</u>
paragraph 4, the data of third country
nationals subject to a visa
requirement referred to in Article
14(1)(a), (b) and (c) $14(2)(a)$ and
(b), 14 (3) (a) and (b) and the data of
third country nationals exempt from
visa obligation referred to under
Articles $15(1)$ (a) $14(2)$ (a) and (b),
14(3) (a) and (b) may be transferred
or made available by the designated
authority to a third country upon a
duly motivated request, only if the
following cumulative conditions are
met:
(a) in an exceptional case of
urgency, where there is an immediate
and serious threat of a terrorist
offence or other serious criminal
offences as defined respectively
under Article 3(1)(26) and (27) of
this Regulation,
(b) the transfer is carried out in
accordance with the applicable
conditions set under Framework
Decision 2008/977/JHA.
(c) the reciprocal provision of any
information on entry/exit records
held by the requesting third country
to the Member States operating the
EES is ensured.
Where a transfer is based on this
paragraph, such a transfer shall be
paragraph, such a transfer shan be



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

Article 39 Data securityArticle 39 Data securityArticle 39 Data securityArticle 39 Data security1. The Member State responsible shall ensure the security of the data before and during the transmission to the National Uniform Interface. Each Member State shall ensure the security of the data it receives from the EES.1. The Member State responsible shall ensure the security of the data before and during the transmission to the National Uniform Interface. Each Member State shall ensure the security of the data it receives from the EES.1. The Member State shall ensure the security of the data it receives from the EES.1. The Member State shall ensure the security of the data it receives from the EES.1. The Member State shall ensure the security of the data it receives from the EES.1. The Member State shall ensure the security of the data it receives from the EES.1. The Member State shall, in relation to its national border infrastructure, adopt the necessary measures, including a security plan and a business continuity and disaster recovery plan, in order to:2. Each Member State shall, in relation to its national infrastructure necessary for border check, adopt the necessary measures, including a security plan and a business continuity and disaster recovery plan, in order to:Provisionally agreed: 2. Each Member State shall, in relation to its national infrastructure necessary for border check, adopt the necessary measures, including a security plan and a business continuity and disaster recovery plan, in order to:				
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and a business continuity and disaster recovery plan, in order to:and a business continuity and disaster recovery plan, in order to:including a security plan and a business continuity and disasternecessary measures, including a security plan and a business	· •		<i>y</i>	
disaster recovery plan, in order to: disaster recovery plan, in order to: business continuity and disaster security plan and a business		· · ·		
	5		C I	
$\Gamma = \Gamma =$	disaster recovery plan, in order to.	disaster recovery plan, in order to.	•	
in order to:			recovery plan, in order to:	
	(a) abusically anota at data	(a) abusing the anote st data	(a) showing the state of data	III order to:
(a) physically protect data, including by making contingenery (a) physically protect data,				
including by making contingency including by making contingency including by making contingency				
plans for the protection of critical plans for the protection of critical plans for the protection of critical	1 1		1 1	
infrastructure; infrastructure; infrastructure;	,		,	
(b) deny unauthorised persons(b) deny unauthorised persons(b) deny unauthorised persons <i>Text supported by delegations:</i>		· · · · ·	· ·	
access to national installations inaccess to data-processing equipmentaccess to national installations in(b)deny unauthorised persons				
				access to <i>data-processing equipment</i>
operations in accordance with the the Member State carries out operations in accordance with the <i>and</i> national installations in which	1		1	
purposes of the EES; operations in accordance with the purposes of the EES; the Member State carries out	purposes of the EES;	1	purposes of the EES;	the Member State carries out
purposes of the EES; operations in accordance with the		purposes of the EES:		operations in accordance with the



			purposes of the EES;
(c) prevent the unauthorised reading, copying, modification or removal of data media;	(c) prevent the unauthorised reading, copying, modification or removal of data media;	(c) prevent the unauthorised reading, copying, modification or removal of data media;	
(d) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored personal data;	(d) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored personal data;	(d) prevent the unauthorised input of data and the unauthorised inspection, modification or deletion of stored personal data;	
	(da) prevent the use of automated data-processing systems by unauthorised persons using data communication equipment;		<i>Text supported by delegations:</i> da) prevent the use of automated data-processing systems by unauthorised persons using data communication equipment;
(e) prevent the unauthorised processing of data in the EES and any unauthorised modification or deletion of data processed in the EES;	(e) prevent the unauthorised processing of data in the EES and any unauthorised modification or deletion of data processed in the EES:	(e) prevent the unauthorised processing of data in the EES and any unauthorised modification or deletion of data processed in the EES:	
(f) ensure that persons authorised to access the EES have access only to the data covered by their access authorisation, by means of individual user identities and confidential access modes only;	(f) ensure that persons authorised to access the EES have access only to the data covered by their access authorisation, by means of individual <i>and unique</i> user identities and confidential access modes only;	(f) ensure that persons authorised to access the EES have access only to the data covered by their access authorisation, by means of individual user identities and confidential access modes only;	<i>Text supported by delegations:</i> f) ensure that persons authorised to access the EES have access only to the data covered by their access authorisation, by means of individual <i>and unique</i> user identities and confidential access modes only;
(g) ensure that all authorities with a right of access to the EES create profiles describing the functions and responsibilities of persons who are authorised to enter, amend, delete, consult and search the data and make their profiles available to the national	(g) ensure that all authorities with a right of access to the EES create profiles describing the functions and responsibilities of persons who are authorised to enter, amend, delete, consult and search the data and make their profiles available to the national	(g) ensure that all authorities with a right of access to the EES create profiles describing the functions and responsibilities of persons who are authorised to enter, amend, delete, consult and search the data and make their profiles available to the []	Legal services of the institutions discussed the terminology regarding suvervisory authorities. Compromise proposal: (g) ensure that all authorities with a right of access to the EES create

supervisory authorities referred to in Article 49 and to the national supervisory authorities referred to in Article 52(2) without delay at their request;	supervisory authorities referred to in Article 49 and to the national supervisory authorities referred to in Article 52(2) without delay at their request;	supervisory authorities referred to in Article 49 and to the national supervisory authorities referred to in Article 52(2) without delay at their request;	profiles describing the functions and responsibilities of persons who are authorised to enter, amend, delete, consult and search the data and make their profiles available to the [] supervisory authorities referred to in Article 49 and to the national supervisory authorities referred to in Article 52(2) without delay at their request;
 (h) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment; 	(h) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment;	 (h) ensure that it is possible to verify and establish to which bodies personal data may be transmitted using data communication equipment; 	
 (i) ensure that it is possible to verify and establish what data has been processed in the EES, when, by whom and for what purpose; (j) prevent the unauthorised 	 (i) ensure that it is possible to verify and establish what data has been processed in the EES, when, by whom and for what purpose; (i) provent the unsutherized 	 (i) ensure that it is possible to verify and establish what data has been processed in the EES, when, by whom and for what purpose; (j) prevent the unauthorised 	
(j) prevent the unauthorised reading, copying, modification or deletion of personal data during the transmission of personal data to or from the EES or during the transport of data media, in particular by means of appropriate encryption techniques;	(j) prevent the unauthorised reading, copying, modification or deletion of personal data during the transmission of personal data to or from the EES or during the transport of data media, in particular by means of appropriate encryption techniques;	(j) prevent the unauthorised reading, copying, modification or deletion of personal data during the transmission of personal data to or from the EES or during the transport of data media, in particular by means of appropriate encryption techniques;	
	(ja) ensure that, in the event of an interruption, installed systems can be restored to normal operation;		Aligned with EURODAC Proposal, new article 36. EP to revert back being that this paragraph refers to the Central System and therefore, it is not up to the MS to deal with.



	(jb) ensure reliability by making sure that any faults in the functioning of the EES are properly reported and that necessary technical measures are put in place to ensure that personal data can be restored in the event of corruption due to a malfunctioning of the system;		Aligned with EURODAC Proposal, new article 36. However the sentence " and that necessary technical measures are put in place to ensure that personal data can be restored in the event of corruption due to a malfunctioning of the system" does not fit within the logic of this article because this is a task for eu-LISA and not for the MS. EP to revert.
(k) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring to ensure compliance with this Regulation.	 (k) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring to ensure compliance with this Regulation. 2a. Member States shall inform eu-LISA of security incidents detected on their systems without prejudice to the notification and communication of a personal data breach pursuant to Article 33 of Regulation (EU) No 2016/679. eu-LISA shall inform the Member States in the event of a security incident on the EES Central System. Where a security incident leads to a personal data breach, the European Data Protection Supervisor shall also be informed. The Member States concerned, and 	(k) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring to ensure compliance with this Regulation.	Delegations accepted to have a new article 39a on Security Incidents. New article inserted below.

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	eu-LISA shall collaborate in the		
	event of a security incident.		
3. As regards the operation of the	3. As regards the operation of the	3. As regards the operation of the	
EES, eu-LISA shall take the	EES, eu-LISA shall take the	EES, eu-LISA shall take the	
necessary measures in order to	necessary measures in order to	necessary measures in order to	
achieve the objectives set out in	achieve the objectives set out in	achieve the objectives set out in	
paragraph 2 including the adoption	paragraph 2 including the adoption	paragraph 2 including the adoption	
of a security plan and a business	of a security plan and a business	of a security plan and a business	
continuity and disaster recovery plan.	continuity and disaster recovery plan.	continuity and disaster recovery plan.	
· · · · ·	3a. eu-LISA and the Member	· · · · · · ·	Text accepted by delegations:
	States shall cooperate in order to		3a. eu-LISA and the Member States
	ensure a harmonised data security		shall cooperate in order to ensure a
	approach based on a security risk		harmonised data security approach
	management process encompassing		based on a security risk management
	the entire EES as referred to in		process encompassing the entire
	Article 6.		EES.
			Text accepted by delegations:
			COM suggestion: new article 39a
			Article 39a
			Security incidents
			1. Any event that has or may have
			an impact on the security of the EES
			and may cause damage or loss to
			EES data shall be considered to be a
			security incident, especially where
			<u>unauthorised</u> access to data may
			have occurred or where the
			availability, integrity and
			confidentiality of data has or may
			have been compromised.
			2. Security incidents shall be
			managed to ensure a quick, effective
			and proper response.
L	1	1	min Freher response.



	3. Without prejudice to the
	notification and communication of
	a personal data breach pursuant to
	Article 33 of Regulation (EU) No
	2016/679 and/ or to Article 30 of
	Directive (EU) No 2016/680,
	Member States shall notify the
	Commission, eu-LISA and the
	European Data Protection Supervisor
	of security incidents. In the event of
	a security incident on the EES
	Central System, Eu-LISA shall
	notify the Commission and the
	European data Protection Supervisor.
	4. Information regarding a
	security incident that has or may
	have an impact on the operation of
	the EES or on the availability,
	integrity and confidentiality of the
	data, shall be provided to the
	Member States and reported in
	compliance with the incident
	management plan to be provided by
	eu-LISA.
	5. The Member States
	concerned and eu-LISA shall
	collaborate in the event of a
	security incident.

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Article 40	Article 40	Article 40	
Liability	Liability	Liability	
1. Any person or Member State	1. Any person or Member State	1. Any person or Member State	Text supported by delegations:
that has suffered damage as a result	that has suffered <i>material or</i>	that has suffered damage as a result	Any person or Member State that has
of an unlawful processing operation	<i>immaterial</i> damage as a result of an	of an unlawful processing operation	suffered material or immaterial
or any act incompatible with this	unlawful processing operation or any	or any act incompatible with this	damage as a result of an unlawful
Regulation shall be entitled to	act incompatible with this Regulation	Regulation shall be entitled to	processing operation or any act
receive compensation from the	shall be entitled to receive	receive compensation from the	incompatible with this Regulation
Member State which is responsible	compensation from the Member	Member State which is responsible	shall be entitled to receive
for the damage suffered. That	State which is responsible for the	for the damage suffered. That	compensation from the Member
Member State shall be exempted	damage suffered. That Member State	Member State shall be exempted	State which is responsible for the
from its liability, in whole or in part,	shall be exempted from its liability,	from its liability, in whole or in part,	damage suffered. That Member State
if it proves that it is not responsible	in whole or in part, if it proves that it	if it proves that it is not responsible	shall be exempted from its liability,
for the event which gave rise to the	is not <i>in any way</i> responsible for the	for the event which gave rise to the	in whole or in part, if it proves that it
damage.	event which gave rise to the damage.	damage.	is not <i>in any way</i> responsible for the
			event which gave rise to the damage.
2. If any failure of a Member	2. If any failure of a Member	2. If any failure of a Member	
State to comply with its obligations	State to comply with its obligations	State to comply with its obligations	
under this Regulation causes damage	under this Regulation causes damage	under this Regulation causes damage	
to the EES, that Member State shall	to the EES, that Member State shall	to the EES, that Member State shall	
be held liable for such damage,	be held liable for such damage,	be held liable for such damage,	
unless and insofar as eu-LISA or	unless and insofar as eu-LISA or	unless and insofar as eu-LISA or	
another Member State participating	another Member State participating	another Member State participating	
in the EES failed to take reasonable	in the EES failed to take reasonable	in the EES failed to take reasonable	
measures to prevent the damage from	measures to prevent the damage from	measures to prevent the damage from	
occurring or to minimise its impact.	occurring or to minimise its impact.	occurring or to minimise its impact.	
3. Claims for compensation	3. Claims for compensation	3. Claims for compensation	
against a Member State for the	against a Member State for the	against a Member State for the	
damage referred to in paragraphs 1	damage referred to in paragraphs 1	damage referred to in paragraphs 1	
and 2 shall be governed by the	and 2 shall be governed by the	and 2 shall be governed by the	
provisions of national law of the	provisions of national law of the	provisions of national law of the	
defendant Member State.	defendant Member State.	defendant Member State.	



Article 41	Article 41	Article 41	Provisionally agreed:
Keeping of records	Keeping of records	Keeping of records <u>by eu-LISA and</u>	Article 41
		<u>Member States</u>	Keeping of logs by eu-LISA and
			Member States
			(the use of the term "logs" vs the
			term "records" is being checked)
1. eu-LISA shall keep records of	1. eu-LISA shall keep records of	1. eu-LISA shall keep records of	Provisionally agreed:
all data processing operations within	all data processing operations within	all data processing operations within	1. eu-LISA shall keep logs of all
the EES. Those records shall show	the EES. Those records shall show	the EES. Those records shall show	data processing operations within the
the purpose of access referred to in	the purpose of access referred to in	the purpose of access referred to in	EES. Those logs shall show the
Article 8, the date and time, the data	Article 8, the date and time, the data	Article 8, the date and time, the data	purpose of access referred to in
transmitted as referred to in Article	transmitted as referred to in Article	transmitted as referred to in Article	Article 8, the date and time, the data
14 to 17, the data used for	14 to 17, the data used for	14 to 17, the data used for	transmitted as referred to in Article
interrogation as referred to in	interrogation as referred to in	interrogation as referred to in	14 to 17, the data used for
Articles 21 to 25 and the name of the	Articles 21 to 25 and the name of the	Articles 21 to 25 and the name of the	interrogation as referred to in
authority entering or retrieving the	authority entering or retrieving the	authority entering or retrieving the	Articles 21 to 25 and the name of the
data. In addition, each Member State	data. In addition, each Member State	data. []	authority entering or retrieving the
shall keep records of the staff duly	shall keep records of the staff duly		data.
authorised to enter or retrieve the	authorised to enter or retrieve the		
data. 2. For the consultations listed in	Aata. 2. For the consultations listed in	2. For the consultations listed in	
2. For the consultations listed in Article 7, a record of each data	2. For the consultations listed in Article 7, a record of each data	2. For the consultations listed in Article 7, a record of each data	
processing operation carried out	processing operation carried out	processing operation carried out	
within the EES and the VIS shall be	within the EES and the VIS shall be	within the EES and the VIS shall be	
kept in accordance with this Article	kept in accordance with this Article	kept in accordance with this Article	
and Article 34 of Regulation (EC)	and Article 34 of Regulation (EC)	and Article 34 of Regulation (EC)	
767/2008. eu-LISA shall ensure in	767/2008. eu-LISA shall ensure in	767/2008. eu-LISA shall ensure in	
particular that the relevant records of	particular that the relevant records of	particular that the relevant records of	
the concerned data processing	the concerned data processing	the concerned data processing	
operations are kept when the	operations are kept when the	operations are kept when the	
competent authorities launch a data	competent authorities launch a data	competent authorities launch a data	
processing operation directly from	processing operation directly from	processing operation directly from	
one system to the other.	one system to the other.	one system to the other.	



3. Such records may be used only for the data protection monitoring of the admissibility of data processing as well as to ensure data security. Those records shall be protected by appropriate measures against unauthorised access and deleted one year after the retention period referred to in Article 31 has expired, if they are not required for monitoring procedures which have already begun.	3. Such records may be used only for the data protection monitoring of the admissibility of data processing as well as to ensure data security <i>pursuant to Article 39</i> . Those records shall be protected by appropriate measures against unauthorised access and deleted one year after the retention period referred to in Article 31 has expired, <i>if-unless</i> they are not -required for monitoring procedures which have already begun.	 <u>2a.</u> In addition to paragraphs 1 and <u>2. each Member State shall keep</u> <u>records of the staff duly authorised to</u> <u>enter or retrieve the data.</u> 3. Such records may be used only for the data protection monitoring of the admissibility of data processing as well as to ensure data security. Those records shall be protected by appropriate measures against unauthorised access and deleted one year after the retention period referred to in Article 31 has expired, if they are not required for monitoring procedures which have already begun. 	<i>Text accepted by delegations:</i> 2a. In addition to paragraphs 1 and 2, each Member State shall keep logs of the staff duly authorised to process the data. <i>Text accepted by delegations:</i> Such records may be used only for the data protection monitoring of the admissibility of data processing as well as to ensure data security pursuant to Article 39 . Those records shall be protected by appropriate measures against unauthorised access and deleted one year after the retention period referred to in Article 31 has expired, if-unless they are not-required for monitoring procedures which have already begun.
Article 42 Self-monitoring	Article 42 Self-monitoring	Article 42 Self-monitoring	
Member States shall ensure that each authority entitled to access EES data takes the measures necessary to comply with this Regulation and cooperates, where necessary, with the supervisory authority.	Member States shall ensure that each authority entitled to access EES data takes the measures necessary to comply with this Regulation and cooperates, where necessary, with the supervisory authority.	Member States shall ensure that each authority entitled to access EES data takes the measures necessary to comply with this Regulation and cooperates, where necessary, with the supervisory authority <u>and</u> <u>national supervisory authority</u> . <u>Member States shall ensure that the</u> <u>technical performance of the border</u> <u>control infrastructure, availability,</u> <u>duration of the border checks and the</u>	The Presidency invites delegations to consider the deletion of the Council addition under this article as it is not in line with the logic of the article. The Council addition is not about data protection but is rather linked to SCHEVAL. Text supported by delegations: Member States shall ensure that each authority entitled to access EES data

		data quality in algority maniton 1 to	tolves the measures recessory to
		data quality is closely monitored to	takes the measures necessary to
		ensure that each Member State meets	comply with this Regulation and
		the overall requirements for the	cooperates, where necessary, with
		proper functioning of the EES and an	the supervisory authorities. -
		efficient border check process.	
Article 43	Article 43	Article 43	
Penalties	Penalties	Penalties	
Member States shall take the	Member States shall take the	Member States shall take the	In accordance with the General Data
necessary measures to ensure that	necessary measures to ensure that	necessary measures to ensure that	Protection Regulation, Member
any use of data entered in the EES in	any use of data entered in the EES in	any use of data entered in the EES in	States are obliged to have both
contravention of this Regulation is	contravention of this Regulation is	contravention of this Regulation is	aadministrative and criminal
punishable by penalties, including	punishable by penalties, including	punishable by penalties [] in	penalties.
administrative and criminal penalties	administrative and criminal penalties	accordance with national law, that	
in accordance with national law, that	in accordance with national law, that	are effective, proportionate and	
are effective, proportionate and	are effective, proportionate and	dissuasive.	
dissuasive.	dissuasive.		
	Article 43a		ED insists on installing this Astisla
	Data Protection		<i>EP insists on including this Article,</i>
			which mirrors Art. 49 of the ETIAS
			proposal.
			The Presidency suggests accepting
			the EP addition; however, reference
			to Art. 5 should be replaced by
			reference to Art. 1(2)
	1. Regulation (EC) No 45/2001		
	shall apply to the processing of		
	personal data by eu-LISA on the		
	basis of this Regulation.		
	2. Regulation (EU) 2016/679		
	shall apply to the processing of		
	personal data by national		
	authorities on the basis of this		
	Regulation, with the exception of		



	 processing for the purposes referred to in points (j) to (l) of Article 5. 3. Directive (EU) 2016/680 shall apply to the processing of personal data by Member States' designated authorities on the basis of this Regulation for the purposes referred to in points (j) to (l) of Article 5. 4. Regulation (EU) 2016/794 shall apply to the processing of personal data by Europol on the 		
CHAPTER VII	basis of this Regulation. CHAPTER VII	CHAPTER VII	Delas stiens about durate durate most of
CHAPTER VII Rights and supervision on data	Rights and supervision on data	CHAPTER VII Rights and supervision on data	Delegations should note that most of the proposed changes under this
protection	protection	protection	Chapter are for the purpose of
			aligning the text with the General Data Protecton Regulation
Article 44	Article 44	Article 44	
Right of information	Right of information	Right of information	
1. Without prejudice to the right	1. Without prejudice to the right	1. Without prejudice to the right	Counter-proposal by LIBE
of information in Article 10 of	of information in Article 10-13 of	of information in Article 10 of	Committee:
Directive 95/46/EC, third country	Directive 95/46/EC Regulation (EU)	Directive 95/46/EC, third country	1. Without prejudice to the right
nationals whose data are recorded in	2016/679, third country nationals	nationals whose data are recorded in	of information in Article 13 of
the EES shall be informed by the	whose data are recorded in the EES	the EES shall be informed by the	Regulation (EU) 2016/679, third
Member State responsible in writing	shall be informed by the Member	Member State responsible in writing	country nationals whose data are to
of the following:	State responsible in writing <i>and in a concise, transparent, intelligible and</i>	or in another effective way of the following:	be recorded in the EES shall be informed by the Member State
	<i>easily accessible form</i> of the	lonowing.	responsible in writing and in a
	following:		concise, transparent, intelligible and
	ionowing.		easily accessible form of the
			following:

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 (a) an explanation using clear and plain language, of the fact that the EES may be accessed by the Member States and Europol for law enforcement purposes; 	 (a) an explanation using clear and plain language, of the fact that the EES may be accessed by the Member States and Europol for law enforcement purposes; 	(a) an explanation using clear and plain language, of the fact that the EES may be <u>used for the purposes of</u> <u>border management</u> , as well as the <u>fact that it may be</u> accessed by the Member States and Europol for law enforcement purposes;	<i>Text accepted by delegations:</i> a) an explanation using clear and plain language, of the fact that the EES may be accessed by the Member States and Europol for law enforcement purposes;
(b) the obligation on visa exempt third country nationals to have their fingerprints taken;	(b) the obligation on visa exempt third country nationals to have their fingerprints taken;	 (b) the obligation on visa exempt third country nationals <u>and on</u> <u>holders of a Facilitated Transit</u> <u>Document (FTD) issued in</u> <u>accordance with Regulation (EC)</u> <u>693/2003</u> to have their fingerprints taken; 	 Provisionally agreed text: b) the obligation on visa exempt third country nationals and on holders of a Facilitated Transit Document (FTD) issued in accordance with Regulation (EC) 693/2003 to have their fingerprints taken;
(c) the obligation on all third country nationals subject to registration in the EES to have their facial image recorded;	(c) the obligation on all third country nationals subject to registration in the EES to have their facial image recorded;	(c) the obligation on all third country nationals subject to registration in the EES to have their facial image recorded;	
(d) that the collection of the data is mandatory for the examination of entry conditions;	(d) that the collection of the data is mandatory for the examination of entry conditions;	(d) that the collection of the data is mandatory for the examination of entry conditions;	
		(d1) <u>an explanation that entry shall</u> <u>be refused if a third country national</u> <u>refuses to provide the requested</u> <u>biometric data for registration,</u> <u>verification and/or identification in</u> <u>the EES;</u>	Provisionally agreed text: (d1) an explanation that entry shall be refused if a third country national refuses to provide the requested biometric data for registration, verification and/or identification in the EES;



	(d2) the right to ask border check	To revert back on it once a
	authorities during border checks at	compromise on this issue under Art.
	entry about the maximum remaining	10 is reached.
	number of days of his/her authorised	
	stay,	
	(d3) the fact that if the maximum	The Council amendments on this
	duration of authorised stay is	point are reflected on point (ea) of
	exceeded, he/she will be identified as	the EP text. Presidency encouarges
	an overstayer, as well as the	to accept the EP text under point
	consequences thereof,	(ea).Structure of this article accepted
	consequences mereor,	•
		by the delegations. Deletion of $(d3)$
		accepted.
	(d4) the retention period for the	The Council amendments on this
	storage of data,	point are reflected on point (eb) of
		the EP text. Presidency encourages
		to accept the EP text under point
		(eb). Structure of this article
		accpeted by the delegations. Deletion
		of (d4) accepted.
		COM drafting suggestion linked with
		art 38(2)(d)
		(d5) an explanation of the fact that
		personal data stored in the EES may
		be transferred or made available to a
		third country or an international
		organisation listed in Annex I for
		the purposes of return

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(e) the right of access to data relating to them, the right to request that inaccurate data relating to them be corrected or that unlawfully processed data relating to them be deleted, including the right to receive information on the procedures for exercising those rights and contact details of the national supervisory authorities, or of the European Data Protection Supervisor if applicable, which shall hear claims concerning the protection of personal data.	(e) the <i>existence of the</i> right of <i>to</i> <i>request from the controller</i> access to data relating to them, the right to request that inaccurate data relating to them be corrected <i>rectified and</i> <i>that incomplete personal data</i> <i>relating to them be completed</i> or that unlawfully processed <i>personal</i> data <i>relating to concerning</i> them be deleted, including <i>erased or</i> <i>restricted, as well as</i> the right to receive information on the procedures for exercising those rights, and-including the contact details of the <i>controller and the</i> national supervisory authorities, or of the European Data Protection Supervisor if applicable, which shall hear claims-complaints concerning the protection of personal data.	(e) the right of access to data relating to them, the right to request that inaccurate data relating to them be corrected or that unlawfully processed data relating to them be deleted, including the right to receive information on the procedures for exercising those rights and contact details of the <u>supervisory authorities</u> , national supervisory authorities, or of the European Data Protection Supervisor if applicable, which shall hear claims concerning the protection of personal data.	The EP amendments reflect the General Data Protection Regulation. Presidency encourages to accept these changes. Provisionally agreed text: (e) the existence of the right of-to request from the controller access to data relating to them, the right to request that inaccurate data relating to them be rectified and that incomplete personal data relating to them be completed or that unlawfully processed personal data concerning them be erased or restricted, as well as the right to receive information on the procedures for exercising those rights, including the contact details of the controller and the national supervisory authorities, or of the European Data Protection Supervisor
	the protection of personal data.		if applicable, which shall hear complaints concerning the protection of personal data.
	(ea) an explanation of the fact that EES data shall be accessed for border management and facilitation purposes, specifying that overstays will automatically lead to the addition of the third-country national's data to a list, as well as the possible consequences of overstaying;		<i>Provisionally agreed</i> : (ea) an explanation of the fact that EES data shall be accessed for border management and facilitation purposes, specifying that overstays will automatically lead to the addition of the third-country national's data to a list, as well as the possible consequences of overstaying;



	 (eb) the data retention period set for entry and exit records and for individual files pursuant to Article 31; (ec) the right for overstayers to have their personal data erased where they provide evidence that they exceeded the authorised duration of stay due to 		 <i>Provisionally agreed</i>: (eb) the data retention period set for entry and exit records and for individual files pursuant to Article 31; <i>Provisionally agreed text based on</i> <i>Art. 32(5)</i>: (ec) the right for overstayers to have their personal data erased from the list referred to in Article 11(2) and
	 unforeseeable and serious events; and (ed) the right to lodge a complaint to the supervisory authority. 		rectified on the EES, where they provide evidence that they exceeded the authorised duration of stay due to unforeseeable and serious events; <i>Provisionally agreed text:</i> (ed) the right to lodge a complaint
2. The information provided in paragraph 1 of this Article shall be provided at the time when the individual file of the person concerned is being created in accordance with Articles 14, 15 or 16.	2 The information provided in paragraph 1 of this Article shall be provided by means of the leaflet referred to in paragraph 3 or by any other appropriate means which ensure that the third-country national concerned is informed of his or her rights at the time when the individual file of that person concerned is being created in accordance with Articles 14, 15 or 16.	2. The information provided in paragraph 1 of this Article shall be provided <u>in writing</u> , or <u>in another</u> <u>effective way</u> , at the time when the individual file of the person concerned is being created in accordance with Articles 14,15 or 16.	to the supervisory authority. <i>Counter-proposal by LIBE</i> <i>Committee:</i> The information provided in paragraph 1 of this Article shall be provided in <i>a concise, transparent,</i> <i>intelligible and easily accessible</i> <i>form in</i> writing, <i>by any appropriate</i> <i>means, which ensures that the third</i> <i>country national is informed of his</i> <i>or her rights,</i> at the time when the individual file of the person concerned is being created in accordance with Articles 14,15 or 16.

			referred to paragraph 1 of this Article.
3. A common leaflet and a website containing at least the information referred to in paragraph 1 of this Article shall be drawn up and set up by the Commission in accordance with the examination procedure referred to in Article 61(2). The leaflet and the content of the website shall be clear and simple and available in a linguistic version the person concerned understands or is reasonably supposed to understand. The leaflet and the website shall be established in such a manner as to enable Member States to complete them with additional Member State specific information. That Member State specific information shall include at least the rights of the data subject, the possibility of assistance by the national supervisory authorities, as well as contact details of the office of the controller and national supervisory authorities.	3. A common leaflet and a website containing at least the information referred to in paragraph 1 of this Article shall be drawn up and set up by the Commission in accordance with the examination procedure referred to in Article 61(2). The leaflet and the content of the website shall be clear and simple, <i>drafted in</i> <i>a concise, transparent, intelligible</i> <i>and easily accessible form</i> and available in a linguistic version the person concerned understands or is reasonably supposed to understand. The leaflet and the website shall be established in such a manner as to enable Member States to complete them with additional Member State specific information. That Member State specific information shall include at least the rights of the data subject, the possibility of assistance by the national supervisory authorities, as well as contact details of the office of the controller <i>and of</i> <i>the data protection officer</i> and <i>the</i> mational-supervisory authorities.	3. [] <u>The</u> common [] information referred to in paragraph 1 of this Article shall be drawn up and set up by the Commission in accordance with the examination procedure referred to in Article 61(2) <u>and</u> [] the content [] shall be clear and [] <u>plain language</u> and available in a linguistic version the person concerned understands or is reasonably supposed to understand. <u>The Commission shall provide the common information in a template</u> . <u>This template could in particular take the form of a poster</u> . The <u>template</u> [] shall be established in such a manner as to enable Member States to complete them with additional Member State specific information shall include at least the rights of the data subject, the possibility of assistance by the [] supervisory authorities, as well as contact details of the office of the controller and [] supervisory authorities.	The second sub- paragraph of para 3 lays out the details of the form of the template and the specific information that it should contain. This wording is more fit to be in a recital. The recital should make a reference to the form the information will be given in (template, leaflet, etc.). Text accepted by delegations: The information referred to in paragraph 1 of this Article shall be drawn up and set up by the Commission in accordance with the examination procedure referred to in Article 61(2) and the content shall be clear and plain language and available in a linguistic version the person concerned understands or is reasonably supposed to understand. The Commission shall provide the common information in a template. The template shall be established in such a manner as to enable Member States to complete them with additional Member State specific information. That Member State specific information shall include at least the rights of the data subject, the possibility of assistance by the national supervisory authorities, as



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of personal dataerasure and of restriction of the processing of personal data1. Without prejudice to Article 121. Without prejudice to Article 121. [] The requests of thirdThe reasoning behind the EPof Directive 95/46/EC any thirdArticles 15, 16, 17 and 18 ofcountry national shall have the right1. [] The requests of thirdamendment with the introduction ofto obtain the data relating to him orDirective 95/46/EC Regulation (EU)set out in Article 12 of Directivetime limit of 2 months is to have anher recorded in the EES and of theshall have the right to obtain the data95/46/EC may be addressed to theoverall time limit within which theMember State which transmitted it torelating to him or her recorded in theState.MS has to reply to the request of the third country national. The	deletion	· · · -	deletion	8
In Without prejudice to Article 12In Without prejudice to Article 12In [] The requests of thirdIn the reasoning behind the EPIn Directive 95/46/EC any thirdIn tricles 15, 16, 17 and 18 ofIn country nationals related to the rightIn enament with the introduction ofIn obtain the data relating to him orInterctive 95/46/EC Regulation (EU)In the recorded in the EES and of theInterctive 95/46/EC Regulation (EU)Interctive 95/46/EC Regulation (EU)In the recorded in the EES and of theInterctive 95/46/EC Regulation (EU)Interctive 95/46/EC Regulation (EU)Interctive 95/46/EC may be addressed to theInterctive 10 for the request of theIn the recorded in the EES and of theInterctive 10 him or her recorded in theInterctive 95/46/EC Regulation (EU)Interctive 95/46/EC may be addressed to theInterctive 10 him or her recorded in theIn the tring to him or her recorded in the EES and of theInterctive 10 him or her recorded in theInterctive 10 him or her recorded in theInterctive 10 him or her recorded in theIn the tring to him or her recorded in theInterctive 95/46/EC may be addressed to theInterctive 10 him or her recorded in theInterctive 10 him or her recorded in theIn the tring to him or her recorded in theInterctive 10 him or her recorded in theInterctive 10 him or her recorded in theInterctive 10 him or her recorded in theIn the tring to him or her recorded in theInterctive 10 him or her recorded in theInterctive 10 him or her recorded in theInterctive 10 him or her recorded in theIn the tring to him or her recorded in theInterctive 10 him or her recorded in theInterc		· · · · ·		-
1.Without prejudice to Article 121.Without prejudice to Article 121.[] The requests of thirdThe reasoning behind the EPof Directive 95/46/EC any thirdArticles 15, 16, 17 and 18 ofcountry nationals related to the rightsamendment with the introduction ofcountry national shall have the rightDirective 95/46/EC Regulation (EU)set out in Article 12 of Directivetime limit of 2 months is to have anto obtain the data relating to him or2016/679 any third country national95/46/EC may be addressed to theoverall time limit within which theher recorded in the EES and of theshall have the right to obtain the datacompetent authority of any MemberMS has to reply to the request of theMember State which transmitted it torelating to him or her recorded in theState.third country national. The		of personal data		
of Directive 95/46/EC any third country national shall have the right to obtain the data relating to him or her recorded in the EES and of theArticles 15, 16, 17 and 18 of Directive 95/46/EC Regulation (EU) 2016/679 any third country national shall have the right to obtain the data relating to him or her recorded in the EES and of theArticles 15, 16, 17 and 18 of Directive 95/46/EC Regulation (EU) 2016/679 any third country national shall have the right to obtain the data relating to him or her recorded in thecountry nationals related to the rights set out in Article 12 of Directive 95/46/EC may be addressed to the competent authority of any Member State.amendment with the introduction of time limit of 2 months is to have an overall time limit within which the MS has to reply to the request of the third country national. The	1 With out annivation to Article 12	1 With out projudice to Article 12	1 [] The requests of third	
country national shall have the right to obtain the data relating to him or her recorded in the EES and of theDirective 95/46/EC Regulation (EU) 2016/679 any third country national shall have the right to obtain the data relating to him or her recorded in theset out in Article 12 of Directive 95/46/EC may be addressed to the competent authority of any Membertime limit of 2 months is to have an overall time limit within which the MS has to reply to the request of the third country national. The	1 0	1 5	· · · ·	Ũ
to obtain the data relating to him or her recorded in the EES and of the Member State which transmitted it to		· · ·		
her recorded in the EES and of the Member State which transmitted it toshall have the right to obtain the data relating to him or her recorded in thecompetent authority of any Member State.MS has to reply to the request of the third country national. The		0		0
Member State which transmitted it to relating to him or her recorded in the State. third country national. The	e	5 5		
		e		1 0 1 0
the EES	the EES.	EES and of the Member State which	state.	compromise proposal puts forward



	transmitted it to the EES and may request that data relating to him or her which are inaccurate be rectified or completed and that data recorded unlawfully be erased. The Member State responsible shall reply to such requests within two		an overall time limit of 45 days (30 days for the authorities to check the accuracy of the data; 7 days for MS to which the request has been made to contact MS responsible; the remaining days to contact the third country national).
	months of receipt of the request.		<i>Compromise text:</i> The requests of third country nationals related to the rights set out in Articles 15, 16, 17 and 18 of Regulation (EU) 2016/679 may be addressed to the competent authority of any Member State. The Member State responsible [or the Member State to whom the request has been made] shall reply to such requests within 45 days of receipt of the request.
2. If a request for correction or	2. If a request for correction or	2. If a request [] is made to a	Presidency encourages to accept the
deletion is made to a Member State	deletion rectification, completion or	Member State other than the	new compromise timelimits which
other than the Member State	erasure of personal data or	Member State responsible, the	meet EP's and Council's positions:
responsible, the authorities of the	restriction of the processing of	authorities of the Member State to	2. If a request for rectification or
Member State to which the request	<i>personal data</i> is made to a Member	which the request has been made	erasure of personal data or
has been made shall check the	State other than the Member State	shall check the accuracy of the data	restriction of the processing of
accuracy of the data and the	responsible, the authorities of the	and the lawfulness of the data	personal data is made to a Member
lawfulness of the data processing in	Member State to which the request	processing in the EES within a time	State other than the Member State
the EES within a time limit of one	has been made shall check the	limit of one month if that check can	responsible, the authorities of the
month if that check can be done	accuracy of the data and the	be done without consulting the	Member State to which the request has been made shall check the
without consulting the Member State	lawfulness of the data processing in the EES within a time limit of one	Member State responsible. Otherwise the Member State other	
responsible. Otherwise the Member			accuracy of the data and the
State other than the Member State	month 14 days if that check can be	than the Member State responsible	lawfulness of the data processing in



responsible shall contact the authorities of the Member State responsible within a time limit of 14 days and the Member State responsible shall check the accuracy of the data and the lawfulness of the data processing within a time limit of one month.	done without consulting the Member State responsible. Otherwise the Member State other than the Member State responsible shall contact the authorities of the Member State responsible within a time limit of 14 <i>seven</i> days and the Member State responsible shall check the accuracy of the data and the lawfulness of the data processing within a time limit of one month 14 days.	shall contact the authorities of the Member State responsible within a time limit of 14 days and the Member State responsible shall check the accuracy of the data and the lawfulness of the data processing within a time limit of one month.	the EES within a time limit of 1 month if that check can be done without consulting the Member State responsible. Otherwise the Member State other than the Member State responsible shall contact the authorities of the Member State responsible within a time limit of 7 days and the Member State responsible shall check the accuracy of the data and the lawfulness of the
			data processing within a time limit of 1 month .
3. In the event that data recorded	3. In the event that data recorded	3. In the event that data recorded	Provisionally agreed compromise
in the EES are factually inaccurate or	in the EES are factually inaccurate,	in the EES are factually inaccurate or	text:
have been recorded unlawfully, the	<i>incomplete</i> or have been recorded	have been recorded unlawfully, the	3. In the event that data recorded
Member State responsible or, where	unlawfully, the Member State	Member State responsible or, where	in the EES are factually inaccurate,
applicable, the Member State to	responsible or, where applicable, the	applicable, the Member State to	incomplete or have been recorded
which the request has been made	Member State to which the request	which the request has been made	unlawfully, the Member State
shall correct or delete the data in	has been made shall <i>rectify</i> ,	shall correct or delete the data in	responsible or, where applicable, the
accordance with Article 32. The	complete or erase the personal data	accordance with Article 32. The	Member State to which the request
Member State responsible or, where	or restrict the processing of personal	Member State responsible or, where	has been made shall rectify or erase
applicable, the Member State to	correct or delete the data in	applicable, the Member State to	the personal data or restrict the
which the request has been made	accordance with Article 32. The	which the request has been made	processing of personal data in
shall confirm in writing to the person	Member State responsible or, where	shall confirm in writing to the person	accordance with Article 32. The
concerned without delay that it has	applicable, the Member State to	concerned without delay that it has	Member State responsible or, where
taken action to correct or delete data	which the request has been made	taken action to correct or delete data	applicable, the Member State to
relating to him.	shall confirm in writing to the person	relating to him.	which the request has been made
In the event that visa-related data	concerned without delay that it has	In the event that visa-related data	shall confirm in writing to the person
recorded in the EES are factually	taken action to correct or delete	recorded in the EES are factually	concerned without delay that it has
incorrect or have been recorded	rectify, complete or erase the	incorrect or have been recorded	taken action to rectify or erase the
unlawfully, the Member State	personal data concerning relating to	unlawfully, the Member State	personal data concerning him or
responsible or, where applicable, the	him or her or to restrict the	responsible or, where applicable, the	her or to restrict the processing of



Mambar State to which the request	processing of such personal data	Mombar state to which the request	such norsonal date
Member State to which the request has been made shall first check the	<i>processing of such personal data</i> . In the event that visa-related data	Member state to which the request has been made shall first check the	such personal data. In the event that visa-related data
accuracy of these data against the	recorded in the EES are factually	accuracy of these data against the	recorded in the EES are factually
VIS and if necessary will amend	incorrect, <i>incomplete</i> or have been	VIS and if necessary will amend	incorrect, incomplete or have been
them in the EES. Should the data	recorded unlawfully, the Member	them in the EES. Should the data	recorded unlawfully, the Member
recorded in the VIS be the same as in	State responsible or, where	recorded in the VIS be the same as in	State responsible or, where
the EES, the Member State	applicable, the Member State to	the EES, the Member State	applicable, the Member State to
responsible or the Member State to	which the request has been made	responsible or, where applicable, the	which the request has been made
which the request was made, shall	shall first check the accuracy of these	Member state to which the request	shall first check the accuracy of these
contact the authorities of the Member	data against the VIS and if necessary	[] <u>has been</u> made, shall contact the	data against the VIS and if necessary
State responsible for entering these	will amend them in the EES. Should	authorities of the Member State	will amend them in the EES. Should
data in the VIS within a time limit of	the data recorded in the VIS be the	responsible for entering these data in	the data recorded in the VIS be the
14 days. The Member State	same as in the EES, the Member	the VIS within a time limit of 14	same as in the EES, the Member
responsible for entering the data in	State responsible or the Member	days. The Member State responsible	State responsible or, where
the VIS shall check the accuracy of	State to which the request was made,	for entering the data in the VIS shall	applicable, the Member State to
the visa related data and the	shall contact the authorities of the	check the accuracy of the visa related	which the request has been made,
lawfulness of its processing in the	Member State responsible for	data and the lawfulness of its	shall contact the authorities of the
EES within a time limit of one month	entering these data in the VIS within	processing in the EES within a time	Member State responsible for
and inform the Member State	a time limit of 14 seven days. The	limit of one month and inform the	entering these data in the VIS within
responsible or the Member State to	Member State responsible for	Member State <u>concerned</u> [] which	a time limit of seven days. The
which the request has been made	entering the data in the VIS shall	shall, if necessary, amend or erase	Member State responsible for
which shall, if necessary, amend or	check the accuracy of the visa related	them without delay from the EES	entering the data in the VIS shall
erase them without delay from the	data and the lawfulness of its	and, where applicable, from the list	check the accuracy of the visa related
EES and, where applicable, from the	processing in the EES within a time	of persons referred to in Article	data and the lawfulness of its
list of persons referred to in Article	limit of one month and inform the	11(2).	processing in the EES within a time
11(2).	Member State responsible or the		limit of one month and inform the
	Member State to which the request		Member State concerned which
	has been made which shall, if		shall, if necessary, rectify, complete
	necessary, amend or rectify,		or erase the personal data
	<i>complete or</i> erase them the personal		concerning him or her or restrict
	data concerning him or her or		the processing of such data without
	restrict the processing of such data		delay from the EES and, where
	without delay from the EES and,		applicable, from the list of persons
	manout dotay from the EES and,		application, from the list of persons



	where applicable, from the list of persons referred to in Article 11(2).		referred to in Article 11(2).
4. If the Member State responsible or, where applicable, the Member State to which the request has been made does not agree that data recorded in the EES are factually inaccurate or have been recorded unlawfully, that Member State shall adopt an administrative decision explaining in writing to the person concerned without delay why it is not prepared to correct or delete data relating to him.	4. If the Member State responsible or, where applicable, the Member State to which the request has been made does not agree that data recorded in the EES are factually inaccurate, <i>incomplete</i> or have been recorded unlawfully, that Member State shall adopt an administrative decision explaining in writing to the person concerned without delay why it is not prepared to correct or delete rectify, complete <i>or erase the personal</i> data relating to him <i>or her or restrict the processing</i>	4. If [] the Member State to which the request has been made does not agree that data recorded in the EES are factually inaccurate or have been recorded unlawfully, that Member State shall adopt an administrative decision explaining in writing to the person concerned without delay why it is not prepared to correct or delete data relating to him.	Provisionally agreed : If the Member State responsible or, where applicable, the Member State to which the request has been made does not agree that data recorded in the EES are factually inaccurate or have been recorded unlawfully, that Member State shall adopt an administrative decision explaining in writing to the person concerned without delay why it is not prepared to rectify, complete or erase the personal data relating to him or heror restrict the
5. The Member State responsible or, where applicable, the Member State to which the request has been made shall also provide the person concerned with information explaining the steps which he can take if he does not accept the explanation for the decision pursuant to paragraph 5. This shall include information on how to bring an action or a complaint before the competent authorities or courts of	of such data. 5. The Member State responsible or, where applicable, the Member State to which the request has been made shall also provide the person concerned with information explaining the steps which he can take if he does not accept the explanation for the decision pursuant to paragraph $5 4$. This shall include information on how to bring an action or a complaint before the competent authorities or courts of	5. The Member State <u>which has</u> <u>adopted the administrative decision</u> <u>pursuant to paragraph 4</u> [] shall also provide the person concerned with information explaining the steps which he can take if he does not accept the explanation. [] This shall include information on how to bring an action or a complaint before the competent authorities or courts of that Member State and any assistance, including from the	 processing of such data. Provisionally agreed: 5. The Member State which has adopted the administrative decision pursuant to paragraph 4 shall also provide the person concerned with information explaining the steps which he can take if he does not accept the explanation. This shall include information on how to bring an action or a complaint before the competent authorities or courts of that Member State and any



that Member State and any assistance, including from the supervisory authorities, that is available in accordance with the laws, regulations and procedures of that Member State.	that Member State and any assistance, including from the supervisory authorities, that is available in accordance with the laws, regulations and procedures of that Member State.	supervisory authorities, that is available in accordance with the laws, regulations and procedures of that Member State.	assistance, including from the supervisory authorities <i>established in</i> <i>accordance with Article 51(1) of</i> <i>Regulation (EU) 2016/679.</i> , that is available in accordance with the laws, regulations and procedures of that Member State.
6. Any request made pursuant to paragraphs 1 and 2 shall contain the necessary information to identify the person concerned, including fingerprints. That information shall be used exclusively to enable t the exercise of the rights referred to in paragraphs 1 and 2 and shall be erased immediately afterwards.	6. Any request made pursuant to paragraphs 1 and 2 shall contain the necessary minimum information necessary to identify the person concerned., including fingerprints. Fingerprints may be requested for this purpose only in duly justified cases where there are substantive doubts as to the identity of the applicant. That information shall be used exclusively to enable the exercise of the rights referred to in paragraphs 1 and 2 and shall be erased immediately afterwards.	6. Any request made pursuant to paragraphs 1 and 2 shall contain the necessary information to identify the person concerned []. That information shall be used exclusively to enable [] the exercise of the rights referred to in paragraphs 1 and 2 and shall be erased immediately afterwards.	Presidency encourages delegations to accept the compromise text: ³⁰ Any request made pursuant to paragraphs 1 and 2 shall contain the minimum information necessary to identify the person concerned. Fingerprints may be requested for this purpose only in duly justified cases where there are substantive doubts as to the identity of the applicant. That information shall be used exclusively to enable the exercise of the rights referred to in paragraphs 1 and 2 and shall be erased immediately afterwards.
7. Whenever a person requests data relating to him in accordance with paragraph 2, the competent authority shall keep a record in the form of a written document that such a request was made and how it was addressed and by which authority and shall make that document available to the national supervisory	7. Whenever a person requests data relating to him in accordance with paragraph 2, the competent authority shall keep a record in the form of a written document that such a request was made and how it was addressed and by which authority and shall make that document available to the national supervisory	7. Whenever a person requests data relating to him in accordance with paragraph 2, the competent authority shall keep a record in the form of a written document that such a request was made and how it was addressed and by which authority and shall make that document available to the [] supervisory	 Provisionally agreed compromise text (subject to clarification on the competent authority of which MS): 7. Whenever a person, made a request in accordance with paragraph 1, the competent authority shall keep a record in the form of a written document that such a request was made and how it was

³⁰ Reserve: AT, HU.



authorities without delay.	authorities without delay. within seven days. A copy of that document shall also be issued to the person concerned.	authorities without delay.	addressed and by which authority and shall make that document available to the supervisory authorities authority established in accordance with Article 51(1) of Regulation (EU) 2016/679, within seven days.
Article 47 Cooperation to ensure the rights on data protection	Article 47 Cooperation to ensure the rights on data protection	Article 47 Cooperation to ensure the rights on data protection	
1. The competent authorities of the Member States shall cooperate actively to enforce the rights laid down in Article 46(3), (4) and (5).	1. The competent authorities of the Member States shall cooperate actively to enforce the rights laid down in Article $46(3)$, (4) and (5).	1. The competent authorities of the Member States shall cooperate actively to enforce the rights laid down in Article 46(3), (4) and (5).	 <i>Provisionally agreed:</i> 1. The competent authorities of the Member States shall cooperate actively to enforce the rights laid down in Article 46.
2. In each Member State, the supervisory authority shall, upon request, assist and advise the person concerned in exercising his right to correct or delete data relating to him in accordance with Article 28(4) of Directive 95/46/EC. In order to achieve those aims, the supervisory authority of the Member State responsible which transmitted the data and the supervisory authorities of the Member States to which the request has been made shall cooperate with each other.	2. In each Member State, the supervisory authority shall, upon request, assist and advise the person concerned data subject in exercising his or her right to correct or delete rectify, complete or erase personal data relating to him or her or to restrict such data in accordance with Article 28(4) of Directive 95/46/EC Regulation (EU) 2016/679. In order to achieve those aims, the supervisory authority of the Member State responsible which transmitted the data and the supervisory authorities of the Member States to which the request has been made shall cooperate with each other.	2. In each Member State, the supervisory authority shall, upon request, assist and advise the person concerned in exercising his right to correct or delete data relating to him in accordance with Article 28(4) of Directive 95/46/EC. In order to achieve those aims, the supervisory authority of the Member State responsible which transmitted the data and the supervisory authorities of the Member States to which the request has been made shall cooperate with each other.	 The text is aligned with the General Data Protection Regulation. Provisionally agreed: 2. In each Member State, the supervisory authority established in accordance with Article 51(1) of Regulation (EU) 2016/679, shall, upon request, assist and advise the data subject in exercising his or her right to rectify, complete or erase personal data relating to him or her or to restrict such data in accordance with Regulation (EU) 2016/679. In order to achieve those aims, the supervisory authority of the Member State responsible which transmitted the data and the supervisory

Article 48	Article 48	Article 48	authority of the Member State to which the request has been made shall cooperate with each other.
Remedies	Remedies	Remedies	
1. In each Member State any	1. In Without prejudice to	1. In each Member State any	The inclusion of ' judicial action'
person shall have the right to bring	Articles 77 to 82 of Regulation (EU)	person shall have the right to bring	is in line with compromise text under
an action or a complaint before the	2016/679, in each Member State any	an action or a complaint [] in the	article 32(5). Presidency encouraged
competent authorities or courts of	person shall have the right to bring	Member State which refused the	delegations to accept the following
that Member State which refused the	an action or a complaint before the	right of access to or the right of	compromise proposal:
right of access to or the right of	competent authorities or courts of	correction or deletion of data relating	1. In each Member State any
correction or deletion of data relating	that Member State which refused the	to him, provided for in Article 46	person shall have the right to bring
to him, provided for in Article 46.	right of access to or the right of	<u>and 47(2).</u>	an action, including a judicial
	rectification, completion or erasure		action, or a complaint, in the
	correction or deletion of data relating		Member State which refused the
	to him, provided for in Article 46.		right of access to or the right of
	The right to bring such an action or		correction or deletion of data relating
	complaint shall also apply in cases		to him, provided for in Article 46
	where requests for access,		and 47(2). The right to bring such
	correction or deletion were not		an action or complaint shall also
	answered within the deadlines		apply in cases where requests for
	provided for in Article 46 or were		access, correction or deletion were not answered within the deadlines
	never dealt with by the data controller.		
	controuer.		provided for in Article 46 or were never dealt with by the data
			controller.
2. The assistance of the	2. The assistance of the	2. The assistance of the	The assistance of the supervisory
supervisory authorities shall remain	supervisory authorities shall remain	supervisory authorities shall remain	<i>authority</i> established in accordance
available throughout the	available throughout the	available throughout the	with Article 51(1) of Regulation
proceedings.	proceedings.	proceedings.	(EU) 2016/679 shall remain
			available throughout the proceedings

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ANNEX	DG D 1 A	LIMITE

Article 49	Article 49	Article 49	Provisionally agreed:
Supervision by the national	Supervision by the national	Supervision by the [] supervisory	Article 49
supervisory authority	supervisory authority	authority	Supervision by the supervisory
			authority
1. Each Member State shall ensure that the national supervisory authority or authorities designated pursuant to Article 28(1) of Directive 95/46/EC shall monitor the lawfulness of the processing of personal data referred to in Articles 13 to 19 by the Member State concerned, including their transmission to and from the EES.	1. Each Member State shall ensure that the national supervisory authority or authorities designated pursuant to Article 28(1) 51(1) of Directive 95/46/EC Regulation (EU) 2016/679 shall independently monitor the lawfulness of the processing of personal data referred to in Chapters II, III and V of this Regulation Articles 13 to 19 by the Member State concerned, including their transmission to and from the EES.	1. Each Member State shall ensure that the [] supervisory authority or authorities designated pursuant to Article 28(1) of Directive 95/46/EC shall monitor the lawfulness of the processing of personal data referred to in Articles 13 to 19 by the Member State concerned, including their transmission to and from the EES.	 Provisionally agreed compromise text except text in [] brackets: 1. Each Member State shall ensure that the national supervisory authority established in accordance with Article 51(1) of Regulation (EU) 2016/679 or authorities designated pursuant to 51(1) of Regulation (EU) 2016/679 shall independently monitor the lawfulness of the processing of personal data referred to in Chapters II, III, V and VI of this Regulation
2. The supervisory authority shall ensure that an audit of the data processing operations in the National System is carried out in accordance with relevant international auditing standards at least every four years.	2. The supervisory authority <i>or</i> <i>authorities</i> shall ensure that an audit of the data processing operations in the National System <i>national border</i> <i>infrastructure</i> is carried out in accordance with relevant international auditing standards at least every four <i>two</i> years.	2. The supervisory authority shall ensure that an audit of the data processing operations in the National System is carried out in accordance with relevant international auditing standards at least every four years from the start of operations of the <u>EES</u> .	by the Member State concerned, including their transmission to and from the EES. The reference to 'National System' should read 'national border infrastructure' because there is no national system on which the auditing of the data processing operations will be done. The EP insist that the auditing should be done within a shorter timelimit, namely 2 years. Could delegations agree with the following compromise text: 2. The supervisory authority [or authorities] The supervisory

3. Member States shall ensure that their supervisory authority has sufficient resources to fulfil the tasks entrusted to it under this Regulation.	3. Member States shall ensure that their <i>independent</i> supervisory authority <i>or authorities have</i> sufficient resources to fulfil the tasks entrusted to <i>them</i> under this Regulation.	3. Member States shall ensure that their supervisory authority has sufficient resources to fulfil the tasks entrusted to it under this Regulation.	authority <i>referred to in paragraph 1</i> shall ensure that an audit of the data processing operations in the national border infrastructure is carried out in accordance with relevant international auditing standards at least every two years <u>from the start</u> of operations of the EES. <i>Delegations want to stick to 4 years</i> . <i>This paragraph has been merged</i> <i>with EP para (5a). Provisionally</i> <i>agreed compromise text:</i> 3. Member States shall ensure that their supervisory authority [or authorities] have referred to in <i>paragraph 1 has</i> sufficient resources to fulfil the tasks entrusted to them under this Regulation <u>and has access</u> <u>to advice from persons with</u> <u>sufficient knowledge of biometric</u> data.
4. In relation to the processing of personal data in the EES, each Member State shall designate the authority which is to be considered as controller in accordance with Article 2(d) of Directive 95/46/EC and which shall have central responsibility for the processing of data by this Member State. Each Member State shall communicate the details of this authority to the	deleted	4. []	Deletion provisionally agreed.

Commission.			
5. Each Member State shall	5. Each Member State shall	5. Each Member State shall	Provisionally agreed:
supply any information requested by	supply any information requested by	supply any information requested by	5. Each Member State shall
the supervisory authorities and shall,	the supervisory authorities and shall,	the supervisory authorities and shall,	supply any information requested by
in particular, provide them with	in particular, provide them with	in particular, provide them with	the supervisory authority referred to
information on the activities carried	information on the activities carried	information on the activities carried	<i>in paragraph 1</i> and shall, in
out in accordance with Articles 35,	out in accordance with Articles 35,	out in accordance with Articles 35,	particular, provide them with
36(1) and 39. Each Member State	36(1) and 39. Each Member State	36(1) and 39. Each Member State	information on the activities carried
shall grant the supervisory	shall grant the supervisory	shall grant the supervisory	out in accordance with Articles 35,
authorities access to their records	authorities access to their records	authorities access to their records	36(1) and 39. Each Member State
pursuant to Article 30 and allow	pursuant to Article 41 and allow	pursuant to Article $[\dots] \underline{41}$ and allow	shall grant the supervisory
them access at all times to all their	them access at all times to all their	them access at all times to all their	authorities authority access to their
EES related premises.	EES related premises.	EES related premises.	records pursuant to Article 41 and
			allow them access at all times to all
			their EES related premises.
	5a. Each Member State shall		Merged with paragraph (3) above.
	ensure that its supervisory authority		
	or authorities have access to advice		
	from persons with sufficient		
	knowledge of biometric data.		
Article 50	Article 50	Article 50	Provisionally agreed:
Supervision by the European Data	Supervision by the European Data	Supervision by the European Data	Article 50
Protection Supervisor	Protection Supervisor	Protection Supervisor	Supervision by the European Data
			Protection Supervisor
1. The European Data Protection	1. The European Data Protection	1. The European Data Protection	Text accepted by delegations:
Supervisor shall ensure that the	Supervisor shall ensure that be	Supervisor shall ensure that the	1. The European Data Protection
personal data processing activities of	<i>responsible for monitoring</i> that the	personal data processing activities of	Supervisor shall be responsible for
eu-LISA concerning the EES are carried out in accordance with this	personal data processing activities of	eu-LISA concerning the EES are carried out in accordance with this	monitoring the personal data
Regulation.	eu-LISA concerning the EES <i>and for ensuring that such activities</i> are		processing activities of eu-LISA concerning the EES and for
Kegulation.	carried out in accordance with this	Regulation.	ensuring that such activities are
	Regulation (<i>EC</i>) No 45/2001 and		carried out in accordance with
	with this Regulation.		Regulation (EC) No 45/2001 and
	wini inis Reguinion.		Regulation (12C) 110 45/2001 and

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			with this Regulation.
2. The European Data Protection Supervisor shall ensure that an audit	2. The European Data Protection Supervisor shall ensure that an audit	2. The European Data Protection Supervisor shall ensure that an audit	In line with the comments made under article 49(2), the EP said that
of the Agency's personal data	of the Agency's <i>eu-LISA</i> 's personal	of the Agency's personal data	the auditing should be done every 2
processing activities is carried out in	data processing activities is carried	processing activities is carried out in	years. Also, the EP said that there
accordance with relevant	out in accordance with relevant	accordance with relevant	should be a reference to 'eu-LISA'
international auditing standards at	international auditing standards at	international auditing standards at	and not 'the Agency' as we should
least every four years. A report of	least every four two years. A report	least every four years. A report of	refer to this Agency with its name.
that audit shall be sent to the	of that audit shall be sent to the	that audit shall be sent to the	Provisionally agreed except text in []
European Parliament, the Council, eu-LISA, the Commission and the	European Parliament, the Council,	European Parliament, the Council,	brackets and subject to agreement on
national supervisory authorities. eu-	eu-LISA, the Commission, <i>eu-LISA</i> and the national supervisory	eu-LISA, the Commission, [] the supervisory authorities and "the"	Article 49(2) with regard to the 2 years:
LISA shall be given an opportunity	authorities. eu-LISA shall be given	national supervisory authorities. eu-	2. The European Data Protection
to make comments before the report	an opportunity to make comments	LISA shall be given an opportunity	Supervisor shall ensure that an audit
is adopted.	before the report is adopted.	to make comments before the report	of eu-LISA 's personal data
-		is adopted.	processing activities is carried out in
			accordance with relevant
			international auditing standards at
			least every two years. A report of
			that audit shall be sent to the
			European Parliament, the Council, , the Commission, eu-LISA and the
			supervisory authorities. eu-LISA
			shall be given an opportunity to
			make comments before the report is
			adopted.
3. eu-LISA shall supply	3. eu-LISA shall supply	3. eu-LISA shall supply	
information requested by the	information requested by the	information requested by the	
European Data Protection	European Data Protection	European Data Protection	
Supervisor, give him access to all	Supervisor, give him access to all	Supervisor, give him access to all	
documents and to its records referred	documents and to its records referred	documents and to its records referred	
to in Article 41 and allow him access	to in Article 41 and allow him access	to in Article 41 and allow him access	
to all its premises at any time.	to all its premises at any time.	to all its premises at any time.	



Article 51	Article 51	Article 51	To revert back on Supervisory
Cooperation between national	Cooperation between national	Cooperation <u>among</u> [] <u>supervisory</u>	Authority
supervisory authorities and the	supervisory authorities and the	authorities, national supervisory	Article 51
European Data Protection	European Data Protection	authorities and the European Data	Cooperation between supervisory
Supervisor	Supervisor	Protection Supervisor	authorities and the European Data
		-	Protection Supervisor
1. The national supervisory	1. The national supervisory	1. The <u>supervisory authorities</u> ,	Provisionally agreed:
authorities and the European Data	authorities and the European Data	national supervisory authorities and	1. The supervisory authorities
Protection Supervisor shall actively	Protection Supervisor shall, each	the European Data Protection	referred to in Article 49, the
cooperate within the framework of	acting within the scope of their	Supervisor shall actively cooperate	Supervisory authorities referred to in
their responsibilities and shall ensure	respective competences, cooperate	within the framework of their	Article 52(2), national supervisory
coordinated supervision of the EES	actively cooperate within in the	responsibilities and shall ensure	authorities and the European Data
and the National Systems.	framework of their responsibilities	coordinated supervision of the EES	Protection Supervisor shall, each
	and shall ensure coordinated	and the National Systems.	acting within the scope of their
	supervision of the EES and the		respective competences, cooperate
	National Systems national border		actively in the framework of their
	infrastructures.		responsibilities and shall ensure
	(Horizontal change to change		coordinated supervision of the EES
	"national systems" to "national		and the national border
	border infrastructures" with the		infrastructures.
	exception of Article 58.)		
2. They shall exchange relevant	2. They shall exchange relevant	2. They shall exchange relevant	Provisionally agreed text:
information, assist each other in	information, assist each other in	information, assist each other in	2. They shall exchange relevant
carrying out audits and inspections,	carrying out audits and inspections,	carrying out audits and inspections,	information, assist each other in
examine difficulties over the	examine difficulties over the	examine difficulties over the	carrying out audits and inspections,
interpretation or application of this	interpretation or application of this	interpretation or application of this	examine difficulties over the
Regulation, assess problems in the	Regulation, assess problems in the	Regulation, assess problems in the	interpretation or application of this
exercise of independent supervision	exercise of independent supervision	exercise of independent supervision	Regulation, assess problems in the
or the exercise of the rights of the	or <i>in</i> the exercise of the rights of the	or the exercise of the rights of the	exercise of independent supervision
data subject, draw up harmonised	data subject, draw up harmonised	data subject, draw up harmonised	or <i>in</i> the exercise of the rights of the
proposals for joint solutions to any	proposals for joint solutions to any	proposals for joint solutions to any	data subject, draw up harmonised
problems and promote awareness of	problems and promote awareness of	problems and promote awareness of	proposals for joint solutions to any
data protection rights, as necessary.	data protection rights, as necessary.	data protection rights, as necessary.	problems and promote awareness of



			data protection rights, as necessary.
3. The supervisory authorities and the European Data Protection Supervisor shall meet for that purpose at least twice a year. The costs of these meetings shall be borne by the European Data Protection Supervisor. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.	3. The supervisory authorities and the European Data Protection Supervisor shall meet for that purpose at least twice a year. The costs of these meetings shall be borne by the European Data Protection Supervisor. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.	3. The supervisory authorities, <u>national supervisory authorities</u> and the European Data Protection Supervisor shall meet for that purpose at least twice a year. The costs of these meetings shall be borne by the European Data Protection Supervisor. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.	 'European Data Protection Supervisor' should be changed to 'European Data Protection Board' Commission proposal: 3. The supervisory authorities and the European Data Protection Supervisor shall meet for that purpose at least twice a year within the framework of the European Data Protection Board established by Regulation (EU) 2016/679. The costs and servicing of these meetings shall be borne by the Board established by Regulation (EU) 2016/679. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.
4. A joint report of activities shall be sent to the European Parliament, the Council, the Commission and eu- LISA every two years. That report shall include a chapter of each Member State prepared by the supervisory authority of that Member State.	4. A joint report of activities shall be sent to the European Parliament, the Council, the Commission and eu- LISA every two years. That report shall include a chapter of each Member State prepared by the supervisory authority of that Member State.	4. A joint report of activities shall be sent to the European Parliament, the Council, the Commission and eu- LISA every two years. That report shall include a chapter of each Member State prepared by the supervisory authority <u>and national</u> <u>supervisory authority</u> of that Member State.	 <i>Commission proposal:</i> A joint report of activities shall be sent by <i>the European Data</i> <i>Protection Board established by</i> <i>Regulation (EU) 2016/679 to</i> the European Parliament, the Council, the Commission and eu-LISA every two years. That report shall include a chapter of each Member State prepared by the supervisory authorities of that Member State.

Article 52	Article 52	Article 52	Compromise text:
Protection of personal data for law	Protection of personal data for law	Protection of personal data for law	Article 52
enforcement access	enforcement access	enforcement access	Protection of personal data <i>accessed</i>
, ,		5	in accordance with Chapter IV
1. Each Member State shall ensure that the provisions adopted under national law implementing	1. Each Member State shall ensure that the provisions adopted under national law implementing	1. Each Member State shall ensure that the provisions adopted under national law implementing	Provisionally agreed1.Each Member State shallensure that the provisions adopted
Framework Decision 2008/977/JHA	Framework Decision 2008/977/JHA	Framework Decision 2008/977/JHA	under national law implementing
are also applicable to the access to	<i>Directive (EU) 2016/680</i> are also	are also applicable to the access to	Directive (EU) 2016/680 are also
EES by its national authorities in line with Article 1(2).	applicable to the access to EES by its national authorities in line with Article 1(2).	EES by its national authorities in line with Article 1(2).	applicable to the access to EES by its national authorities in line with Article 1(2).
2. The monitoring of the lawfulness of the access to personal data by the Member States for the purposes listed in Article 1(2) of this Regulation, including their transmission to and from the EES, shall be carried out by the national supervisory authorities designated pursuant to Framework Decision 2008/977/JHA.	2. The monitoring of the lawfulness of the access to personal data by the Member States for the purposes listed in Article 1(2) 5(1a) of this Regulation, including their transmission to and from the EES, shall be carried out by the national supervisory authorities designated pursuant to Framework Decision 2008/977/JHA Directive (EU) 2016/680.	2. The monitoring of the lawfulness of the access to personal data by the Member States for the purposes listed in Article 1(2) of this Regulation, including their transmission to and from the EES, shall be carried out by the national supervisory authorities designated pursuant to Framework Decision 2008/977/JHA.	 Provisionally agreed compromise text: 2. The monitoring of the lawfulness of the access to personal data by the Member States in accordance with Chapter IV of this Regulation, including their transmission to and from the EES, shall be carried out by the national supervisory authorities designated pursuant to Directive (EU) 2016/680 authority established in accordance with Article 41(1) of Directive (EU) 2016/680. Article 49(3) and (5) applies accordingly.
3. The processing of personal	3. The processing of personal	3. The processing of personal	Provisionally agreed:
data by Europol shall be carried out	data by Europol pursuant to this	data by Europol shall be carried out	3. The processing of personal
in accordance with Decision	<i>Regulation</i> shall be carried out in	in accordance with Decision	data by Europol pursuant to this
2009/371/JHA and shall be	accordance with Decision	2009/371/JHA and shall be	Regulation shall be carried out in
supervised by an independent	2009/371/JHA Regulation (EU)	supervised by an independent	accordance with Regulation (EU)

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external data protection supervisor. Articles 30, 31 and 32 of that Decision shall be applicable to the processing of personal data by Europol pursuant to this Regulation. The independent external data protection supervisor shall ensure that the rights of the third country national are not infringed.	2016/794 and shall be supervised by an independent external data protection supervisor. Articles 30, 31 and 32 of that Decision shall be applicable to the processing of personal data by Europol pursuant to this Regulation. The independent external data protection supervisor shall ensure that the rights of the third country national are not infringed the European Data Protection Supervisor.	external data protection supervisor. Articles 30, 31 and 32 of that Decision shall be applicable to the processing of personal data by Europol pursuant to this Regulation. The independent external data protection supervisor shall ensure that the rights of the third country national are not infringed.	2016/794 and shall be supervised by the European Data Protection Supervisor.
4. Personal data accessed in the EES for the purposes laid down in Article 1(2) shall only be processed for the purposes of the prevention, detection or investigation of the specific case for which the data have been requested by a Member State or by Europol.	4. Personal data accessed in the EES for the purposes laid down in Article $\frac{1(2)}{5(1a)}$ shall only be processed for the purposes of the prevention, detection or investigation of the specific case for which the data have been requested by a Member State or by Europol.	4. Personal data accessed in the EES for the purposes laid down in Article 1(2) shall only be processed for the purposes of the prevention, detection or investigation of the specific case for which the data have been requested by a Member State or by Europol.	 Provisionally agreed compromise text: 4. Personal data accessed in the EES in accordance with Chapter IV shall only be processed for the purposes of the prevention, detection or investigation of the specific case for which the data have been requested by a Member State or by Europol.
5. The Central System, the designated authorities, the central access points and Europol shall keep records of the searches for the purposes of enabling the national data protection authorities and the European Data Protection Supervisor to monitor the compliance of data processing with Union data protection rules. Other than for such purpose, personal data, as well as the	5. The Central System, the designated authorities, the central access points and Europol shall keep records of the searches for the purposes of enabling the national data protection authorities and the European Data Protection Supervisor to monitor the compliance of data processing with Union data protection rules, <i>including for the</i> <i>purpose of maintaining records in</i>	5. The Central System, the designated authorities, the central access points and Europol shall keep records of the searches for the purposes of enabling the national data protection authorities and the European Data Protection Supervisor to monitor the compliance of data processing with Union data protection rules. Other than for such purpose, personal data, as well as the	EP withdrew its amendment.



records of the searches, shall be erased in all national and Europol files after a period of one month, unless those data and records are required for the purposes of the specific ongoing criminal investigation for which they were requested by a Member State or by Europol.	order to prepare the annual reports referred to in Article 64(8). Other than for such purpose, personal data, as well as the records of the searches, shall be erased in all national and Europol files after a period of one month, unless those data and records are required for the purposes of the specific ongoing criminal investigation for which they were	records of the searches, shall be erased in all national and Europol files after a period of one month, unless those data and records are required for the purposes of the specific ongoing criminal investigation for which they were requested by a Member State or by Europol.	
	requested by a Member State or by		
Article 53	Europol.	Article 53	
Article 53 Logging and documentation	Article <u>53</u> Logging and documentation	Article 53 Logging and documentation	
Logging and documentation 1. Each Member State and	1. Each Member State and	1. Each Member State and	Provisionally agreed:
Europol shall ensure that all data	Europol shall ensure that all data	Europol shall ensure that all data	1. Each Member State and
processing operations resulting from	processing operations resulting from	processing operations resulting from	Europol shall ensure that all data
requests to access to EES data for the	requests to access to EES data for the	requests to access to EES data for the	processing operations resulting from
purposes laid down in Article 1(2)	purposes laid down in Article $\frac{1}{2}$	purposes laid down in Article 1(2)	requests to access to EES data in
are logged or documented for the	5(1a) are logged or documented for	are logged or documented for the	accordance with Chapter IV are
purposes of checking the	the purposes of checking the	purposes of checking the	logged or documented for the
admissibility of the request,	admissibility of the request,	admissibility of the request,	purposes of checking the
monitoring the lawfulness of the data	monitoring the lawfulness of the data	monitoring the lawfulness of the data	admissibility of the request,
processing and data integrity and	processing and data integrity and	processing and data integrity and	monitoring the lawfulness of the data
security, and self-monitoring.	security, and self-monitoring.	security, and self-monitoring.	processing and data integrity and security, and self-monitoring.
2. The log or documentation shall	2. The log or documentation shall	2. The log or documentation shall	Provisionally agreed:
show:	show, <i>in all cases</i> :	show:	2. The log or documentation shall
			show, in all cases:
(a) the exact purpose of the	(a) the exact purpose of the	(a) the exact purpose of the	
request for access to EES data,	request for access to EES data,	request for access to EES data,	
including the terrorist offence or	including the terrorist offence or	including the terrorist offence or	
other serious criminal offence	other serious criminal offence	other serious criminal offence	

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3. Logs and documentation shall	3. Logs and documentation shall	3. Logs and documentation shall	Provisionally agreed:
be used only for monitoring the	be used only for monitoring the	be used only for monitoring the	3. Logs and documentation shall
lawfulness of data processing and for	lawfulness of data processing and for	lawfulness of data processing and for	be used only for monitoring the
ensuring data integrity and security.	ensuring data integrity and security.	ensuring data integrity and security.	lawfulness of data processing and for
Only logs containing non-personal	Only logs containing non-personal	Only logs containing non-personal	ensuring data integrity and security.
data may be used for the monitoring	which do not contain personal data	data may be used for the monitoring	Only logs which do not contain
and evaluation referred to in Article	may be used for the monitoring and	and evaluation referred to in Article	personal data may be used for the
64. The competent national	evaluation referred to in Article 64.	64. The competent national	monitoring and evaluation referred to
supervisory authorities responsible	The competent national supervisory	supervisory authorities responsible	in Article 64. The competent
for checking the admissibility of the	authorities responsible for checking	for checking the admissibility of the	national supervisory authorities
request and monitoring the	the admissibility of the request and	request and monitoring the	The supervisory authority is
lawfulness of the data processing and	monitoring the lawfulness of the data	lawfulness of the data processing and	responsible for checking the
data integrity and security shall have	processing and data integrity and	data integrity and security shall have	admissibility of the request and
access to those logs at their request	security shall have access to those	access to those logs at their request	monitoring the lawfulness of the data
for the purpose of fulfilling their	these logs at their request for the	for the purpose of fulfilling their	processing and data integrity and
duties.	purpose of fulfilling their duties.	duties.	security shall have access to these
			logs at their request for the purpose
			of fulfilling their duties.



CHAPTER VIII	CHAPTER VIII	CHAPTER VIII	
Amendments to other Union	Amendments to other Union	Amendments to other Union	
instruments	instruments	instruments	
Article 54	Article 54	Article 54	
Amendment to the Convention	Amendment to the Convention	Amendment to the Convention	
implementing the Schengen	implementing the Schengen	implementing the Schengen	
Agreement	Agreement	Agreement	
In Article 20, of the Convention	In Article 20, of the Convention	In Article 20, of the Convention	
implementing the Schengen	implementing the Schengen	implementing the Schengen	
Agreement, paragraph 2 is replaced	Agreement, paragraph 2 is replaced	Agreement, paragraph 2 is replaced	
by the following:	by the following:	by the following:	
'2. Paragraph 1 shall not affect each	'2. Paragraph 1 shall not affect each	"2. Paragraph 1 shall not affect each	Bilateral agreements will be tackled
Contracting Party's right to extend	Contracting Party's right to extend	Contracting Party's right to extend	at Political Trilogue.
beyond 90 days an alien's stay in its	beyond 90 days an alien's stay in its	beyond 90 days <u>in any 180-day</u>	
territory in exceptional	territory in exceptional	period an alien's stay in its territory	
circumstances'.	circumstances'.		
		<u>a)</u> in exceptional circumstances <u>or</u>	
		b) in accordance with a bilateral	
		agreement concluded before the	
		entry into force of this Convention	
		and notified to the Commission in	
		accordance with the last	
		subparagraph of this paragraph.	
		<u>2a.</u> <u>The stay of an alien in the</u>	
		territory of a Contracting Party may	
		be extended in accordance with a	
		bilateral agreement pursuant to	
		paragraph 2(b), upon request of the	
		alien and lodged with the competent	
		authorities of that Contracting Party	
		upon entry or during the stay of the	
		alien at the latest on the last working	
		day of his/her 90-day stay in any	



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<u>180-day period.</u>
In case the alien has not lodged a
request during the 90-day stay in any
180-day period, his/her stay may be
extended based on a bilateral
agreement concluded by a
Contracting Party and his/her stay
beyond the 90-day stay in any 180-
day period preceding that extension
may be presumed lawful by the
competent authorities of that
Contracting Party provided that that
alien presents credible evidence
which proves that during that time
he/she has stayed only at the territory
of that Contracting party.
2b. In case where the stay is
extended pursuant to paragraph 2,
the competent authorities of that
Contracting Party shall enter the data
related to the extension in the latest
relevant entry/exit record in
accordance with Article 17 of the
Regulation establishing the
Entry/Exit system.
2c. The alien shall be authorised to
stay only in the territory of that
Contracting Party and exit at the
external borders of that Contracting
party.
The competent authority that has
extended the stay shall inform the
•
alien concerned that the extension of



		stay is authorised only in the territory	
		of that Contracting party and he/she	
		shall exit at the external border of	
		that Contracting party.	
		2d. The Contracting Parties shall	
		notify to the Commission within	
		three months after entry into force of	
		the Regulation establishing the	
		Entry/Exit System the text of their	
		relevant applicable bilateral	
		agreements pursuant to paragraph	
		2(b). If the Contracting party ceases	
		to apply any of those bilateral	
		agreements it shall notify the	
		Commission thereof. The	
		Commission shall publish the	
		information in the Official Journal of	
		the European Union."	
Article 55	Article 55	Article 55	
Amendments to Regulation (EC)	Amendments to Regulation (EC)	Amendments to Regulation (EC)	
767/2008 concerning the Visa	767/2008 concerning the Visa	767/2008 concerning the Visa	
Information System		Information System	
<u>v</u> v	Information System		
Regulation (EU) No 767/2008 is	Regulation (EU) No 767/2008 is	Regulation (EU) No 767/2008 is	
amended as follows:	amended as follows:	amended as follows:	
		(0) In Article 10(1) the following	Provisionally agreed:
		indents are [] added:	(0) In Article 10(1) the following
			indents are added:
		(dd) if applicable, the information	Provisionally agreed:
		indicating that the visa has been	(dd) if applicable, the information
		issued with limited territorial	indicating that the visa has been
		validity, on the basis of Article	issued with limited territorial
		25(1)(b) of the Regulation (EC)	validity, on the basis of Article
		<u>810/2009.</u>	25(1)(b) of the Regulation (EC)



			810/2009.
		(1) if applicable, the status of the person indicating that the third country national is member of the family of a Union citizen to whom the Directive 2004/38/EC applies or of a third country national enjoying the right of free movement under Union law.	Provisionally agreed: (1) if applicable, the status of the person indicating that the third country national is member of the family of a Union citizen to whom the Directive 2004/38/EC applies or of a third country national enjoying the right of free movement under
(1) In Article 13 the following paragraph is added:	In Article 13 the following paragraph is added:	(1) In Article 13 the following paragraph is added:	Union law.
 "3. Where a decision has been taken to annul or to revoke an issued visa, the visa authority which has taken the decision shall immediately retrieve and export from the VIS into the Entry/Exit System (EES) the data listed under paragraph 1 of Article 17 of [Regulation N° XXX of the European Parliament and the Council establishing an Entry/Exit System (EES) to register entry and exit 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] *." * Regulation No XXX of the European Parliament and the Council 	"3. Where a decision has been taken to annul or to revoke an issued visa, the visa authority which has taken the decision shall immediately retrieve and export from the VIS into the Entry/Exit System (EES) the data listed under paragraph 1 of Article 17 of [Regulation N° XXX of the European Parliament and the Council establishing an Entry/Exit System (EES) to register entry and exit 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] *." * Regulation No XXX of the European Parliament and the Council	"3. Where a decision has been taken to annul or to revoke an issued visa, the visa authority which has taken the decision shall immediately retrieve and export <u>automatically</u> from the VIS into the Entry/Exit System (EES) the data listed under paragraph 1 of Article 17 of [Regulation N° XXX of the European Parliament and the Council establishing an Entry/Exit System (EES) to register entry and exit data <u>and refusal of entry data of third</u> 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] *."	Provisionally agreed : 3. Where a decision has been taken to annul or to revoke an issued visa, the visa authority which has taken the decision shall immediately retrieve and export from the VIS into the Entry/Exit System (EES) the data listed under paragraph 1 of Article 17 of [Regulation N° XXX of the European Parliament and the Council establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data_of third country nationals crossing the external borders of the Member States of the European Union and determining the conditions for access to the EES for law enforcement purposes] *.
establishing an Entry/Exit System	establishing an Entry/Exit System	* Regulation No XXX of the	* Regulation No XXX of the





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

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

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"Article 17a	"Article 17a	"Article 17a	
Interoperability with the EES	Interoperability with the EES	Interoperability with the EES	
1 From the start of operations of	1. From the start of operations of	1. From the start of operations of	EP amendment to be moved to the
the EES referred to in Article $60(1)$	the EES referred to in Article 60(1)	the EES referred to in Article $60(1)$	Recitals. Provisionally agreed:
of [Regulation establishing an	of [Regulation establishing an	of [Regulation establishing an	(1) From the start of operations of
Entry/Exit System (EES)],	Entry/Exit System (EES)],	Entry/Exit System (EES)],	the EES referred to in Article 60(1)
interoperability between the EES and	interoperability between the EES and	interoperability between the EES and	of [Regulation establishing an
the VIS is established to ensure more	the VIS is established to ensure more	the VIS is established to ensure more	Entry/Exit System (EES)],
efficiency and rapidity of border	efficiency and rapidity of border	efficiency and rapidity of border	interoperability between the EES and
checks. To this effect eu-LISA shall	checks with due respect for the	checks. To this effect eu-LISA shall	the VIS is established to ensure more
establish a Secure Communication	purpose limitation principle. To this	establish a Secure Communication	efficiency and rapidity of border
Channel between the EES Central	effect eu-LISA shall establish a	Channel between the EES Central	checks. To this effect eu-LISA shall
System and the VIS Central System	Secure Communication Channel	System and the VIS Central System	establish a Secure Communication
to enable interoperability between	between the EES Central System and	to enable interoperability between	Channel between the EES Central
the EES and the VIS. Direct	the VIS Central System to enable	the EES and the VIS. Direct	System and the VIS Central System
consultation between the systems	interoperability between the EES and	consultation between the systems	to enable interoperability between
shall only be possible if both this	the VIS. Direct consultation between	shall only be possible if both this	the EES and the VIS. Direct
Regulation and Regulation (EC) No	the systems shall only be possible if	Regulation and [Regulation	consultation between the systems
$767/2008^{31}$ provide for it.	both this Regulation and Regulation	establishing an Entry/Exit System	shall only be possible if both this
	(EC) No 767/2008 provide for it.	(EES)] [] provide for it.	Regulation and [Regulation
			establishing an Entry/Exit System
			(EES) provide for it. Retrieval,
			exportation and importation of
			visa related data directly from the
			VIS into the EES shall be an
			automated process, once the
			operation in question is launched
			by the authority concerned.



2. The interoperability	2. The interoperability	2. The interoperability	 <i>Provisionally agreed</i>: 2. The interoperability shall enable the visa authorities using the VIS to consult the EES from the VIS in order to:
requirement shall enable the visa	requirement shall enable the visa	requirement shall enable the visa	
authorities using the VIS to consult	authorities using the VIS to consult	authorities using the VIS to consult	
the EES from the VIS in order to:	the EES from the VIS in order to:	the EES from the VIS in order to:	
 (a) consult the EES when examining and deciding on visa applications as referred to in Article 22 of [Regulation establishing an Entry/Exit System (EES)] and Article 15(4) of this Regulation; 	 (a) consult the EES when examining and deciding on visa applications as referred to in Article 22 of [Regulation establishing an Entry/Exit System (EES)] and Article 15(4) of this Regulation; 	 (a) consult the EES when examining and deciding on visa applications as referred to in Article 22 of [Regulation establishing an Entry/Exit System (EES)] and Article 15(4) of this Regulation; 	
(b) to retrieve and export the visa	(b) to retrieve and export the visa	(b) to retrieve and export	 Provisionally agreed: b) to retrieve and export the visa related data directly from the VIS into the EES in case a visa is annulled, revoked or extended in accordance with Article 17 of [Regulation establishing an Entry/Exit System (EES)] and Articles 13 and 14 of this Regulation;
related data directly from the VIS	related data directly from the VI8	<u>automatically</u> the visa related data	
into the EES in case a visa is	into the EES in case a visa is	directly from the VIS into the EES in	
annulled, revoked or extended in	annulled, revoked or extended in	case a visa is annulled, revoked or	
accordance with Article 17 of	accordance with Article 17 of	extended in accordance with Article	
[Regulation establishing an	[Regulation establishing an	17 of [Regulation establishing an	
Entry/Exit System (EES)] and	Entry/Exit System (EES)] and	Entry/Exit System (EES)] and	
Articles 13 and 14 of this	Articles 13 and 14 of this	Articles 13 and 14 of this	
Regulation;	Regulation;	Regulation;	
3. The interoperability requirement shall enable the border authorities using the EES to consult the VIS from the EES in order to:	3. The interoperability requirement shall enable the border authorities using the EES to consult the VIS from the EES in order to:	3. The interoperability requirement shall enable the <u>competent</u> [] authorities <u>for</u> <u>carrying out checks at borders at</u> which the EES is operated in <u>accordance with Regulation (EU)</u> <u>XXX (EES)</u> [] to consult the VIS from the EES in order to:	 Provisionally agreed 3. The interoperability shall enable the border authorities using the EES to consult the VIS from the EES in order to:
(a) retrieve and import the visarelated data directly from the VIS tothe EES in order to create or updatethe individual file of a visa holder in	(a) retrieve and import the visa	(a) retrieve and import	Pending EP's concern on the
	related data directly from the VIS to	<u>automatically</u> the visa related data	extraction of the facial image from
	the EES in order to create or update	directly from the VIS to the EES in	the VIS, the following is the
	the individual file of a visa holder in	order to create or update the	provisionally agreed:



the EES in accordance with Articles 13, 14 and 16 of [Regulation establishing an Entry/Exit System (EES)] and Article 18a of this Regulation;	the EES in accordance with Articles 13, 14 and 16 of [Regulation establishing an Entry/Exit System (EES)] and Article 18a of this Regulation;	entry/exit record or refusal of entry record [] of a visa holder in the EES in accordance with Articles 13, 14 and 16 [Regulation establishing an Entry/Exit System (EES)] and Article 18a of this Regulation;	 (a) retrieve and import the visa related data directly from the VIS to the EES in order to create or update [<i>the individual file or</i>] the entry/exit record or refusal of entry record of a visa holder in the EES in accordance with Articles 13, 14 and 16 [Regulation establishing an Entry/Exit System (EES)] and Article 18a of this Regulation;
(b) retrieve and import the visa related data directly from the VIS in case a visa is annulled, revoked or extended in accordance with Article 17 of [Regulation establishing an Entry/Exit System (EES)] and Articles 13 and 14 of this Regulation;	(b) retrieve and import the visa related data directly from the VIS in case a visa is annulled, revoked or extended in accordance with Article 17 of [Regulation establishing an Entry/Exit System (EES)] and Articles 13 and 14 of this Regulation;	(b) retrieve and import <u>automatically</u> the visa related data directly from the VIS in case a visa is annulled, revoked or extended in accordance with Article 17 of [Regulation establishing an Entry/Exit System (EES)] and Articles 13 and 14 of this Regulation;	 Provisionally agreed: (b) retrieve and import the visa related data directly from the VIS in case a visa is annulled, revoked or extended in accordance with Article 17 of [Regulation establishing an Entry/Exit System (EES)] and Articles 13 and 14 of this Regulation;
 (c) verify at the external borders the authenticity and validity of the visa and/or whether the conditions for entry to the territory of the Member States in accordance with Article 6 of Regulation (EU) 2016/399 are fulfilled as referred to in Article 18(2) of this Regulation; (d) check at the external borders whether third country nationals exempt from the visa obligation who do not have an individual file recorded in the EES were previously registered in the VIS in accordance 	 (c) verify at the external borders the authenticity and validity of the visa and/or whether the conditions for entry to the territory of the Member States in accordance with Article 6 of Regulation (EU) 2016/399 are fulfilled as referred to in Article 18(2) of this Regulation; (d) check at the external borders whether third country nationals exempt from the visa obligation who do not have an individual file recorded in the EES were previously registered in the VIS in accordance 	 (c) verify [] the authenticity and validity of the visa and/or whether the conditions for entry to the territory of the Member States in accordance with Article 6 of Regulation (EU) 2016/399 are fulfilled as referred to in Article 18(2) of this Regulation; (d) check [] whether third country nationals exempt from the visa obligation who do not have an individual file recorded in the EES were previously registered in the VIS in accordance with Article 21 of 	 Provisionally agreed: (c)verify the authenticity and validity of the visa and/or whether the conditions for entry to the territory of the Member States in accordance with Article 6 of Regulation (EU) 2016/399 are fulfilled as referred to in Article 18(2) of this Regulation; Provisionally agreed: (d) check whether third country nationals exempt from the visa obligation who do not have an individual file recorded in the EES were previously registered in the VIS



with Article 21 of [Regulation	with Article 21 of [Regulation	[Regulation establishing an	in accordance with Article 21 of
establishing an Entry/Exit System	establishing an Entry/Exit System	Entry/Exit System (EES)] and	[Regulation establishing an
(EES)] and Article 19a of this	(EES)] and Article 19a of this	Article 19a of this Regulation;	Entry/Exit System (EES)] and
Regulation;	Regulation;		Article 19a of this Regulation;
(e) where the identity of a visa	(e) where the identity of a visa	(e) where the identity of a visa	Provisionally agreed:
holder cannot be verified against the	holder cannot be verified against the	holder cannot be verified against the	(e) where the identity of a visa
EES, verify at the external borders	EES, verify at the external borders	EES, verify [] the identity of a visa	holder cannot be verified against the
the identity of a visa holder with	the identity of a visa holder with	holder with fingerprints against the	EES, verify the identity of a visa
fingerprints against the VIS in	fingerprints against the VIS in	VIS in accordance with Articles	holder with fingerprints against the
accordance with Articles 21(2) and	accordance with Articles 21(2) and	21(2) and 21(4) of [Regulation	VIS in accordance with Articles
21(4) of [Regulation establishing an	21(4) of [Regulation establishing an	establishing an Entry/Exit System	21(2) and 21(4) of [Regulation
Entry/Exit System (EES)] and 18(6)	Entry/Exit System (EES)] and 18(6)	(EES)] and 18(6) of this Regulation.	establishing an Entry/Exit System
of this Regulation.	of this Regulation.		(EES)] and 18(6) of this Regulation.
4. In accordance with Article 33	4. In accordance with Article 33	4. In accordance with Article 33	Provisionally agreed:
of the [Regulation establishing an	of the [Regulation establishing an	of the [Regulation establishing an	4. In accordance with Article 33
Entry/Exit System (EES)], the	Entry/Exit System (EES)], the	Entry/Exit System (EES)], the	of the [Regulation establishing an
Commission shall adopt the	Commission shall adopt the	Commission shall adopt the	Entry/Exit System (EES)], the
measures necessary for the	measures necessary for the	measures necessary for the	Commission shall adopt the
establishment and the high level	establishment and the high level	establishment and the high level	measures necessary for the
design of the interoperability in	design of the interoperability in	design of the interoperability in	establishment and the high level
accordance with Article 34 of the	accordance with Article 34 of the	accordance with Article 34 of the	design of the interoperability in
[Regulation establishing an	[Regulation establishing an	[Regulation establishing an	accordance with Article 34 of the
Entry/Exit System (EES)]. In order	Entry/Exit System (EES)]. In order	Entry/Exit System (EES)]. In order	[Regulation establishing an
to establish the interoperability with	to establish the interoperability with	to establish the interoperability with	Entry/Exit System (EES)]. In order
the EES, the Management Authority	the EES, the Management Authority	the EES, the Management Authority	to establish the interoperability with
shall develop the required evolutions	eu- <i>LISA</i> shall develop the required	shall develop the required evolutions	the EES, the Management Authority
and/or adaptations of the Central	evolutions and/or adaptations of the	and/or adaptations of the Central	shall develop the required evolutions
Visa Information System, the	Central Visa Information System, the	Visa Information System, the	and/or adaptations of the Central
National Interface in each Member	National Interface in each Member	National Interface in each Member	Visa Information System, the
State, and the communication	State, and the communication	State, and the communication	National Interface in each Member
infrastructure between the Central	infrastructure between the Central	infrastructure between the Central	State, and the communication
Visa Information System and the	Visa Information System and the	Visa Information System and the	infrastructure between the Central
National Interfaces. The national	National Interfaces. The national	National Interfaces. The national	Visa Information System and the

infrastructures shall be adapted and/or developed by the Member States.	infrastructures shall be adapted and/or developed by the Member States.	infrastructures shall be adapted and/or developed by the Member States.	National Interfaces. The national infrastructures shall be adapted and/or developed by the Member States.
			Commission drafting suggestion NEW amendment to the VIS in view of the changes introduced under Article 12 on Web Service. Provisionally agreed: 3a For the operation of the EES Web Service referred to in Article 12 of [Regulation establishing an Entry/Exit System (EES)], the VIS shall on a daily basis update the separate read-only database referred to in Article 12(2aa) of [Regulation establishing an Entry/Exit System (EES)] via a one-way extraction of the minimum necessary subset of VIS data.
(5) Article 18 is replaced by the following:	(5) Article 18 is replaced by the following:	(5) Article 18 is replaced by the following:	
"Article 18 Access to data for verification at external border crossing points	"Article 18 Access to data for verification at external border crossing points	"Article 18 Access to data for verification at [] borders at which the EES is operated	
1. For the sole purpose of verifying the identity of the visa holders, the authenticity, temporal and territorial validity and status of the visa and/or whether the conditions for entry to the territory of the Member States in accordance with Article 6 of Regulation (EU) 2016/399 are	1. For the sole purpose of verifying the identity of the visa holders, the authenticity, temporal and territorial validity and status of the visa and/or whether the conditions for entry to the territory of the Member States in accordance with Article 6 of Regulation (EU) 2016/399 are	1. For the sole purpose of verifying the identity of the visa holders, the authenticity, temporal and territorial validity and status of the visa and/or whether the conditions for entry to the territory of the Member States in accordance with Article 6 of Regulation (EU) 2016/399 are	Council to revert back.



fulfilled, the competent authorities	fulfilled, the competent authorities	fulfilled, the competent authorities	
for carrying out checks at external	for carrying out checks at external	for carrying out checks at []	
border crossing points in accordance	border crossing points in accordance	borders at which the EES is operated	
with Regulation (EU) 2016/399 shall	with Regulation (EU) 2016/399 shall	shall have access to search using the	
have access to search using the	have access to search using the	following data:	
following data:	føllowing data:		
(a) surname (family name), first	(a) surname (family name), first	(a) surname (family name), first	
name(s) (given names); date of birth,	name(s) (given names); date of birth,	name(s) (given names); date of birth,	
nationality; sex; type and number of	nationality; sex; type and number of	nationality; sex; type and number of	
the travel document; three letter code	the travel document; three letter code	the travel document; three letter code	
of the issuing country of the travel	of the issuing country of the travel	of the issuing country of the travel	
document, and the date of expiry of	document, and the date of expiry of	document, and the date of expiry of	
the validity of the travel document;	the validity of the travel document;	the validity of the travel document;	
(b) or the number of the visa	(b) or the number of the visa	(b)or the number of the visa sticker.	
sticker.	sticker.		
2. Solely for the purposes referred	2. Solely for the purposes referred	2. Solely for the purposes referred	NB: In the EES text, "may" has been
to in paragraph 1, where a search is	to in paragraph 1, where a search is	to in paragraph 1, where a search is	replaced by "shall": ensure
launched in the EES pursuant to	launched in the EES pursuant to	launched in the EES pursuant to	consistency here!
Article 21(2) or Article 21(4) of	Article 21(2) or Article 21(4) of	Article 21(2) or Article 21(4) of	Horizontal issue
[Regulation establishing an	[Regulation establishing an	[Regulation establishing an	
Entry/Exit System (EES)], the	Entry/Exit System (EES)], the	Entry/Exit System (EES)], the	
competent border authority may	competent border authority may	competent [] authority for carrying	
launch a search in the VIS directly	launch a search in the VIS directly	out checks at borders at which the	
from the EES using the data referred	from the EES using the data referred	EES is operated may launch a search	
to in point (a) of paragraph 1.	to in point (a) of paragraph 1.	in the VIS directly from the EES	
		using the data referred to in point (a)	
		of paragraph 1.	
3. If the search with the data	3. If the search with the data	3. If the search with the data	EP withdrew its amendment.
listed in paragraph 1 indicates that	listed in paragraph 1 indicates that	listed in paragraph 1 indicates that	Provisionally agreed text except text
the VIS stores data on one or more	data on the visa holder are recorded	the VIS stores data on one or more	in [] brackets:
issued or extended visa(s)), which	<i>in</i> the VIS, stores data on one or	issued or extended visa(s)), which	3. If the search with the data
are under their validity period and	more issued or extended visa(s)),	are under their validity period and	listed in paragraph 1 indicates that
are territorially valid for the border	which are under their validity period	are <u>under their territorial</u> []	the VIS stores data on one or more
	* *		



crossing, the competent border	and are territorially valid for the	validity for the border crossing, the	issued or extended visa(s), which are
control authority shall be given	border crossing, the competent	competent [] authority for carrying	under their validity period and are
access to consult the following data	border control authority shall be	out checks at borders at which the	under their territorial validity for the
of the concerned application file as	given access to consult the following	EES is operated shall be given access	border crossing, [the competent
well as of linked application file(s)	data of the concerned application file	to consult the following data of the	authority for carrying out checks at
pursuant to Article 8(4), solely for	as well as of linked application	concerned application file as well as	borders at which the EES is
the purposes referred to in	file(s) pursuant to Article 8(4), solely	of linked application file(s) pursuant	operated] shall be given access to
paragraph 1:	for the purposes referred to in	to Article $8(4)$, solely for the	consult the following data of the
	paragraph 1:	purposes referred to in paragraph 1:	concerned application file as well as
			of linked application file(s) pursuant
			to Article 8(4), solely for the
			purposes referred to in paragraph 1:
	(a) the status information and the	(a) the status information and the	
	data taken from the application form,	data taken from the application form,	
	referred to in Article 9(2) and (4);	referred to in Article 9(2) and (4);	
(b) photographs;	(b) photographs;	(b) photographs;	
(c) the data entered in respect of	(c) the data entered in respect of	(c) the data entered in respect of	
the visa(s) issued, annulled, revoked	the visa(s) issued, annulled, revoked	the visa(s) issued, annulled, revoked	
or whose validity is extended	or whose validity is extended	or whose validity is extended	
•	· ·	referred to in Articles 10, 13 and 14.	
referred to in Articles 10, 13 and 14.	referred to in Articles 10, 13 and 14.	,	
In addition, for those visa holders for	In addition, for those visa holders for	In addition, for those visa holders for	Provisionally agreed text except text
whom certain data are not required to	whom certain data are not required to	whom certain data are not required to	in [] brackets:
be provided for legal reasons or	be provided for legal reasons or	be provided for legal reasons or	In addition, for those visa holders for
factually cannot be provided, the	factually cannot be provided, the	factually cannot be provided, the	whom certain data are not required to
competent border control authority	competent border control authority	competent [] authority for carrying	be provided for legal reasons or
shall receive a notification related to	shall receive a notification related to	out checks at borders at which the	factually cannot be provided, the
the specific data field(s) concerned	the specific data field(s) concerned	EES is operated shall receive a	competent authority [for carrying out
which shall be marked as 'not	which shall be marked as 'not	notification related to the specific	checks at borders at which the EES is
applicable'.	applicable'.	data field(s) concerned which shall	operated] shall receive a notification
		be marked as 'not applicable'.	related to the specific data field(s)
			concerned which shall be marked as
			'not applicable'.



4. If the search with the data	deleted	4. If the search with the data	
listed in paragraph 1 indicates that		listed in paragraph 1 indicates that	
data on the person are recorded in the		data on the person are recorded in the	
VIS but that the visa(s) recorded are		VIS but that the visa(s) recorded are	
not valid, the competent border		not valid, the competent []	
authority shall be given access to		authority for carrying out checks at	
consult the data of the application		borders at which the EES is operated	
file(s) as well as of the linked		shall be given access to consult the	
application file(s) pursuant to		following data of the application	
Article 8(4), solely for the purposes		file(s) as well as of the linked	
referred to in paragraph 1:		application file(s) pursuant to	
		Article 8(4), solely for the purposes	
		referred to in paragraph 1:	
(a) the status information and the	deleted	(a) the status information and the	
data taken from the application form,		data taken from the application form,	
referred to in Article 9(2) and (4);		referred to in Article 9(2) and (4);	
(b) photographs;	deleted	(b) photographs;	
(c) the data entered in respect of	deleted	(c) the data entered in respect of	
the visa(s) issued, annulled, revoked		the visa(s) issued, annulled, revoked	
or whose validity is extended,		or whose validity is extended,	
referred to in Articles 10, 13 and 14.		referred to in Articles 10, 13 and 14.	
5. In addition to the consultation	5. In addition to the consultation	5. In addition to the consultation	Text accepted by delegations:
carried out under paragraph 1, the	carried out under paragraph 1, the	carried out under paragraph 1, and	5. In addition to the consultation
competent border authority shall	competent border authority shall	prior to consulting the data in	carried out under paragraph 1, the
verify the identity of a person against	verify the identity of a person against	accordance with paragraphs 3 or 4,	competent authority [for carrying out
the VIS if the search with the data	the VIS if the search with the data	the competent [] authority for	checks at borders at which the EES is
listed in paragraph 1 indicates that	listed in paragraph 1 indicates that	carrying out checks at borders at	operated] shall verify the identity of
data on the person are recorded in the	data on the person are recorded in the	which the EES is operated shall	a person against the VIS if the search
VIS and one of the following	VIS and one of the following	verify the identity of a person against	with the data listed in paragraph 1
conditions is met:	conditions is met:	the VIS if the search with the data	indicates that data on the person are
		listed in paragraph 1 indicates that	recorded in the VIS and one of the
		data on the person are recorded in the	following conditions is met:
		VIS and one of the following	



		conditions is met:	
(a) the identity of the person	(a) the identity of the person cannot	(a) the identity of the person	
cannot be verified against the EES in	be verified against the EES in	cannot be verified against the EES in	
accordance with Article 21(2) of	accordance with Article 21(2) of	accordance with Article 21(2) of	
[Regulation establishing an	[Regulation establishing an	[Regulation establishing an	
Entry/Exit System (EES)], when:	Entry/Exit System (EES)], when:	Entry/Exit System (EES)], when:	
(i) the visa holder is not yet	(i) the visa holder is not yet	(i) the visa holder is not yet	
registered into the EES;	registered into the EES;	registered into the EES;	
(ii) the technology is not available	(ii) the technology is <i>temporarily</i>	(ii) the technology is not available	Provisionally agreed by delegations:
at the border crossing point for the	not available at the border crossing	at the border crossing point for the	ii) the technology is temporarily
use of live facial image and therefore	point for the use of live facial image	use of live facial image and therefore	not available at the border crossing
the identity of the visa holder cannot	and therefore the identity of the visa	the identity of the visa holder cannot	point for the use of live facial image
be verified against the EES;	holder cannot be verified against the	be verified against the EES;	and therefore the identity of the visa
	EES;		holder cannot be verified against the
			EES;
(iii) there are doubts as to the	(iii) there are doubts as to the	(iii) there are doubts as to the	
identity of the visa holder;	identity of the visa holder;	identity of the visa holder;	
(iv) for any other reason, the	(iv) for any other reason, the	(iv) for any other reason, the	
identity of the visa holder cannot be	identity of the visa holder cannot be	identity of the visa holder cannot be	
verified against the EES;	verified against the EES;	verified against the EES;	
(b) the identity of the person can	(b) the identity of the person can	(b) the identity of the person can	
be verified against the EES but, for	be verified against the EES but, for	be verified against the EES but, for	
the first time after the creation of the	the first time after the creation of the	the first time after the creation of the	
individual file, that person intends to	individual file, that person intends to	individual file, that person intends to	
cross the external borders of a	cross the external borders of a	cross [] <u>a border of a Member</u>	
Member State in which this	Member State in which this	State in which this Regulation is	
Regulation is applicable.	Regulation is applicable.	applicable and at which the EES is	
		operated.	
The border authorities shall verify	The border authorities shall verify	The <u>competent</u> [] authorities <u>for</u>	
the fingerprints of the visa holder	the fingerprints of the visa holder	carrying out checks at borders at	
against the fingerprints recorded in	against the fingerprints recorded in	which the EES is operated shall	
the VIS. For visa holders whose	the VIS. For visa holders whose	verify the fingerprints of the visa	



		1	1
fingerprints cannot be used, the	fingerprints cannot be used, the	holder against the fingerprints	
search mentioned under paragraph 1	search mentioned under paragraph 1	recorded in the VIS. For visa holders	
shall be carried out only with the	shall be carried out only with the	whose fingerprints cannot be used,	
alphanumeric data foreseen under	alphanumeric data foreseen under	the search mentioned under	
paragraph 1 of this Article.	paragraph 1 of this Article.	paragraph 1 shall be carried out only	
		with the alphanumeric data foreseen	
		under paragraph 1 of this Article.	
6. For the purpose of a verifying	6. For the purpose of a verifying	6. For the purpose of a verifying	
the fingerprints against the VIS as	the fingerprints against the VIS as	the fingerprints against the VIS as	
laid down under paragraph 5, the	laid down under paragraph 5, the	laid down under paragraph 5, the	
competent authority may launch a	competent authority may launch a	competent authority may launch a	
search from the EES to the VIS.	search from the EES to the VIS.	search from the EES to the VIS.	
7. In circumstances where	7. In circumstances where	7. In circumstances where	
verification of the visa holder or of	verification of the visa holder or of	verification of the visa holder or of	
the visa fails or where there are	the visa fails or where there are	the visa fails or where there are	
doubts as to the identity of the visa	doubts as to the identity of the visa	doubts as to the identity of the visa	
5	<u> </u>	2	
holder, the authenticity of the visa	holder, the authenticity of the visa	holder, the authenticity of the visa	
and/or the travel document, the duly	and/or the travel document, the duly	and/or the travel document, the duly	
authorised staff of those competent	authorised staff of those competent	authorised staff of those competent	
authorities shall have access to data	authorities shall have access to data	authorities shall have access to data	
in accordance with Article 20(1) and	in accordance with Article 20(1) and	in accordance with Article 20(1) and	
(2)."	(2)."	(2)."	
(6) The following Article 18a is	(6) The following Article 18a is	(6) The following Article 18a is	
inserted:	inserted:	inserted:	
"Article 18a	"Article 18a	"Article 18a	Provisionally agreed except text in []
Retrieval of VIS data for creating or	Retrieval of VIS data for creating or	Retrieval of VIS data for creating or	brackets:
updating the individual file of a visa	updating the individual file of a visa	updating [] <u>entry/exit record or</u>	Article 18a
holder into the EES	holder into the EES	<u>refusal of entry record of a visa</u>	Retrieval of VIS data for creating or
		holder into the EES	updating [the individual file or the]
			entry/exit record or the refusal of
			entry record of a visa holder into the
			EES
1. Solely for the purpose of	1. Solely for the purpose of	1. [] <u>When</u> creating or updating	Provisionally agreed compromise



creating or updating the individual file of a visa holder in the EES in accordance with Article 13(2) and Articles 14 and 16 of [Regulation establishing an Entry/Exit System (EES)], the competent border authority shall be given access to retrieve in the VIS and import to the EES, the data stored in the VIS and listed in Article 14(1)(d), (e) and (g) of [Regulation establishing an Entry/Exit System (EES)].	creating or updating the individual file of a visa holder in the EES in accordance with Article 13(2) and Articles 14 and 16 of [Regulation establishing an Entry/Exit System (EES)], the competent border authority shall be given access to retrieve in the VIS and import to the EES, the data stored in the VIS and listed in Article 14(1)(d), (e) and (g) of [Regulation establishing an Entry/Exit System (EES)].	the [] <u>entry/exit record or refusal</u> of entry record of a visa holder in the EES in accordance with Article 13(2) and Article 14 and 16 of [Regulation establishing an Entry/Exit System (EES)], the competent [] authority for carrying out checks at borders at which the EES is operated shall be given access to retrieve in the VIS and import <u>automatically</u> to the EES, the data stored in the VIS and listed in Article 14([]2) (c), (d), (e), (f) and (g) of [Regulation establishing an Entry/Exit System (EES)].	proposal except for text in [] brackets: 1. Solely for the purpose of creating or updating the entry/exit record or refusal of entry record of a visa holder in the EES in accordance with Article 13(2) and Article 14 and 16 of [Regulation establishing an Entry/Exit System (EES)], [the competent authority for carrying out checks at borders at which the EES is operated] shall be given access to retrieve in the VIS and import [automatically] to the EES, the data stored in the VIS and listed in Article 14(2) (c), (d), (e), (f) and (g) of [Regulation establishing an Entry/Exit System (EES)].
(7) The following Article 19a is inserted:	(7) The following Article 19a is inserted:	(7) The following Article 19a is inserted:	
Article 19a Use of the VIS before creating in the EES the individual files of third country nationals exempt from the visa obligation as laid down in Article 10 of [Regulation establishing an Entry/Exit System (EES)]	Article 19a Use of the VIS before creating in the EES the individual files of third country nationals exempt from the visa obligation as laid down in Article 10 of [Regulation establishing an Entry/Exit System (EES)]	"Article 19a Use of the VIS before creating in the EES the individual files of third country nationals exempt from the visa obligation as laid down in Article [] <u>21</u> of [Regulation establishing an Entry/Exit System (EES)]	Provisionally agreed: Article 19a Use of the VIS before creating in the EES the individual files of third country nationals exempt from the visa obligation as laid down in Article 21 of [Regulation establishing an Entry/Exit System (EES)]
1. For the purpose of checking whether a person has been previously registered in the VIS, the competent authorities for carrying out checks at	1. For the purpose of checking whether a person has been previously registered in the VIS, the competent authorities for carrying out checks at	1. For the purpose of checking whether a person has been previously registered in the VIS, the competent authorities for carrying out checks at	

EN

external border crossing points in	external border crossing points in	external border crossing points in	
accordance with Regulation (EU)	accordance with Regulation (EU)	accordance with Regulation (EU)	
2016/399 shall consult the VIS:	2016/399 shall consult the VIS:	2016/399 shall consult the VIS	
(a) before creating in the EES the	(a) before creating in the EES the	[] before creating in the EES the	Linked to the territorial scope of the
individual file of third country	individual file of third country	individual file of third country	EES Regulation
nationals exempt from the visa	nationals exempt from the visa	nationals exempt from the visa	
obligation as laid down in Article 15	obligation as laid down in Article 15	obligation as laid down in Article 15	
of [Regulation establishing an	of [Regulation establishing an	of [Regulation establishing an	
Entry/Exit System (EES)];	Entry/Exit System (EES)];	Entry/Exit System (EES)];	
(b) for third country nationals	(b) for third country nationals	[].	Linked to the territorial scope of the
exempt from the visa obligation who	exempt from the visa obligation who		EES Regulation.
had their individual file created in	had their individual file created in		
the EES by a Member State in which	the EES by a Member State in which		
this Regulation is not applicable,	this Regulation is not applicable,		
when, for the first time after the	when, for the first time after the		
creation of the individual file, the	creation of the individual file, the		
person intends to cross the external	person intends to cross the external		
borders of a Member State in which	borders of a Member State in which		
this Regulation is applicable.	this Regulation is applicable.		
2. For the purpose of paragraph 1,	2. For the purpose of paragraph 1,	2. For the purpose of paragraph 1,	Provisionally agreed except text in []
where Article 21(4) of [Regulation	where Article 21(4) of [Regulation	where Article 21(4) of [Regulation	brackets:
establishing an Entry/Exit System	establishing an Entry/Exit System	establishing an Entry/Exit System	2. For the purpose of paragraph 1,
(EES)] applies and the search	(EES)] applies and the search	(EES)] applies and the search	where Article 21(4) of [Regulation
referred to in Article 25 of that	referred to in Article 25 of that	referred to in Article 25 of that	establishing an Entry/Exit System
Regulation indicates that data on a	Regulation indicates that data on a	Regulation indicates that data on a	(EES)] applies and the search
person are not recorded in the EES or	person are not recorded in the EES or	person are not recorded in the EES or	referred to in Article 25 of that
where Article 21(5) of [Regulation	where Article 21(5) of [Regulation	where Article 21(5) of [Regulation	Regulation indicates that data on a
establishing an Entry/Exit System	establishing an Entry/Exit System	establishing an Entry/Exit System	person are not recorded in the EES or
(EES)] applies, the competent border	(EES)] applies, the competent border	(EES)] applies, the competent []	where Article 21(5) of [Regulation
authority shall have access to search	authority shall have access to search	authority for carrying out checks at	establishing an Entry/Exit System
using the following data: surname	using the following data: surname	borders at which the EES is operated	(EES)] applies, the competent []
(family name), first name(s) (given	(family name), first name(s) (given	shall have access to search using the	authority [for carrying out checks at
names); date of birth, nationality;	names); date of birth, nationality;	following data: surname (family	borders at which the EES is



sex; type and number of the travel document; three letter code of the issuing country of the travel document, and the date of expiry of the validity of the travel document.	sex; type and number of the travel document; three letter code of the issuing country of the travel document, and the date of expiry of the validity of the travel document.	name), first name(s) (given names); date of birth, nationality; sex; type and number of the travel document; three letter code of the issuing country of the travel document, and the date of expiry of the validity of the travel document.	operated] shall have access to search using the following data: surname (family name), first name(s) (given names); date of birth, nationality; sex; type and number of the travel document; three letter code of the issuing country of the travel document, and the date of expiry of
3. Solely for the purposes referred to in paragraph 1, further to a search launched in the EES pursuant to Article 21(4) of [Regulation establishing an Entry/Exit System (EES)] or where Article 21(5) of [Regulation establishing an Entry/Exit System (EES)] applies, the competent border authority may launch a search in the VIS directly from the EES using the alphanumeric data foreseen under paragraph 2.	3. Solely for the purposes referred to in paragraph 1, further to a search launched in the EES pursuant to Article 21(4) of [Regulation establishing an Entry/Exit System (EES)] or where Article 21(5) of [Regulation establishing an Entry/Exit System (EES)] applies, the competent border authority may launch a search in the VIS directly from the EES using the alphanumeric data foreseen under paragraph 2.	3. Solely for the purposes referred to in paragraph 1, further to a search launched in the EES pursuant to Article 21(4) of [Regulation establishing an Entry/Exit System (EES)] or where Article 21(5) of [Regulation establishing an Entry/Exit System (EES)] applies, the competent [] authority <u>for</u> <u>carrying out checks at borders at</u> <u>which the EES is operated</u> may launch a search in the VIS directly from the EES using the alphanumeric data foreseen under paragraph 2.	the validity of the travel document. Provisionally agreed except text in [] brackets: 3. Solely for the purposes referred to in paragraph 1, further to a search launched in the EES pursuant to Article 21(4) of [Regulation establishing an Entry/Exit System (EES)] or where Article 21(5) of [Regulation establishing an Entry/Exit System (EES)] applies, the competent [] authority [for carrying out checks at borders at which the EES is operated] may launch a search in the VIS directly from the EES using the alphanumeric
		4. In addition, if the search with the data listed in paragraph 2 indicates that data on the person are recorded on the VIS, the competent authority for carrying out checks at borders at which the EES is operated shall verify the fingerprints of the person against the fingerprints	data foreseen under paragraph 2.Provisionally agreed:4. In addition, if the search with the data listed in paragraph 2 indicates that data on the person are recorded on the VIS, the competent authority for carrying out checks at borders at which the EES is operated shall verify the fingerprints of the



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



indicates that data on the person are recorded on the VIS, the competent border authority shall verify the fingerprints of the person against the fingerprints recorded in the VIS. The competent border control authority may launch such verification from	indicates that data on the person are recorded on the VIS, the competent border authority shall verify the fingerprints of the person against the fingerprints recorded in the VIS. The competent border control authority may launch such verification from		above.
the EES. For persons whose	the EES. For persons whose		
fingerprints cannot be used, the	fingerprints cannot be used, the		
search shall be carried out only with	search shall be carried out only with		
the alphanumeric data foreseen under	the alphanumeric data foreseen under		
paragraph 2 of this Article.	paragraph 2 of this Article.		
6. In circumstances where the	6. In circumstances where the	6. In circumstances where the	Provisionally agreed text except text
verification provided under	verification provided under	verification provided under	in [] brackets:
paragraphs 2 and/or 5 fails or where	paragraphs 2 and/or 5 fails or where	paragraphs 2 and/or 5 fails or where	6. In circumstances where the
there are doubts as to the identity of	there are doubts as to the identity of	there are doubts as to the identity of	verification provided under
the person or the authenticity of the	the person or the authenticity of the	the person or the authenticity of the	paragraphs 2 and/or 5 fails or where
travel document, the duly authorised	travel document, the duly authorised	travel document, the duly authorised	there are doubts as to the identity of
staff of those competent authorities shall have access to data in	staff of those competent authorities shall have access to data in	staff of those competent authorities shall have access to data in	the person or the authenticity of the
accordance with Article 20(1) and	accordance with Article 20(1) and	accordance with Article 20(1) and	travel document, the duly authorised staff of those competent authorities
(2). The competent border authority	(2). The competent border authority	(2). The competent [] authority for	shall have access to data in
may launch from the EES the	may launch from the EES the	carrying out checks at borders at	accordance with Article 20(1) and
identification referred to in Article	identification referred to in Article	which the EES is operated may	(2). [The competent authority for
20 of this Regulation."	20 of this Regulation."	launch from the EES the	carrying out checks at borders at
20 01 010 100 8000000		identification referred to in Article	which the EES is operated] may
		20 of this Regulation."	launch from the EES the
			identification referred to in Article
			20 of this Regulation.
(8) In Article 20, paragraph 1 is	(8) In Article 20, <i>the first</i>	(8) In Article 20, paragraph 1 is	Provisionally agreed text:
replaced by the following:	subparagraph of paragraph 1 is	replaced by the following:	(8) In Article 20, the first
	replaced by the following:		subparagraph of paragraph 1 is
			replaced by the following:



"1. Solely for the purposes of the	"1. Solely for the purposes of the /	"1. The authorities competent for	Provisionally agreed text except text
identification of any person who may	identification of any person who may	carrying out checks at borders at	in [] brackets:
have been registered previously in	have been registered previously in	which the EES is operated or within	1. Solely for the purposes of the
the VIS or who may not, or may no	the VIS or who may not, or may no	the territory of the Member States as	identification of any person who may
longer, fulfil the conditions for the	longer, fulfil the conditions for the	to whether the conditions for entry	have been registered previously in
entry to, stay or residence on the	entry to, stay or residence on the	to, stay or residence on the territory	the VIS or who may not, or may no
territory of the Member States, the	territory of the Member States, the	of the Member States are fulfilled,	longer, fulfil the conditions for the
authorities competent for carrying	authorities competent for carrying	shall have access to search with the	entry to, stay or residence on the
out checks at external border	out checks at external border	fingerprints of that person [] for	territory of the Member States, [the
crossing points in accordance with	crossing points in accordance with	the sole purposes of the identification	authorities competent for carrying
Regulation (EU) 2016/399 or within	Regulation (EU) $2016/399$ or within	of any person who may have been	out checks at external border
the territory of the Member States as	the territory of the Member States as	registered previously in the VIS or	crossing points in accordance with
to whether the conditions for entry	to whether the conditions for entry	who may not, or may no longer,	Regulation (EU) 2016/399 or within
to, stay or residence on the territory	to, stay or residence on the territory	fulfil the conditions for the entry to,	the territory of the Member States] as
of the Member States are fulfilled,	of the Member States are fulfilled,	stay or residence on the territory of	to whether the conditions for entry
shall have access to search with the	shall have access to search with the	the Member States []."	to, stay or residence on the territory
fingerprints of that person."	fingerprints of that person."		of the Member States are fulfilled,
			shall have access to search with the
	/		fingerprints of that person.
(9) In Article 26 the following	(9) In Article 26 the following	(9) In Article 26 the following	
paragraph is inserted:	paragraph is inserted:	paragraph is inserted:	
"3a. [Six months after the entry into	3a. [Six months after the entry into	"3a. [Six months after the entry into	Provisionally agreed:
force of Regulation establishing an	force of Regulation establishing an	force of Regulation establishing an	3a. [Six months after the entry into
<i>Entry/Exit System (EES)</i>], the	Entry/Exit System (EES)], the	Entry/Exit System (EES)], the	force of Regulation establishing an
Management Authority shall be	Management Authority eu-LISA	Management Authority shall be	Entry/Exit System (EES)], the
responsible for the tasks referred to	shall be responsible for the tasks	responsible for the tasks referred to	Management Authority shall be
in paragraph 3 of this Article."	referred to in paragraph 3 of this	in paragraph 3 of this Article."	responsible for the tasks referred to
	Article.		in paragraph 3 of this Article.
(10) In Article 34, paragraph 1 is	(10) In Article 34, paragraph 1 is	(10) In Article 34, paragraph 1 is	
replaced by the following:	replaced by the following:	replaced by the following:	
"1. Each Member State and the	1. Each Member State and the	"1. Each Member State and the	Provisionally agreed:
Management Authority shall keep	Management Authority eu-LISA	Management Authority shall keep	1. Each Member State and the
records of all data processing	shall keep records of all data	records of all data processing	Management Authority shall keep



operations within the VIS. These	processing operations within the	operations within the VIS. These	records of all data processing
records shall show the purpose of	VIS. These records shall show the	records shall show the purpose of	operations within the VIS. These
	purpose of access referred to in	access referred to in Article 6(1) and	records shall show the purpose of
in Articles 15 to 22, the date and	Article 6(1) and in Articles 15 to 22,	in Articles 15 to 22, the date and	access referred to in Article 6(1) and
	the date and time, the type of data	time, the type of data transmitted as	in Articles 15 to 22, the date and
•	transmitted as referred to in	referred to in Articles 9 to 14, the	time, the type of data transmitted as
type of data used for interrogation as	Articles 9 to 14, the type of data used	type of data used for interrogation as	referred to in Articles 9 to 14, the
referred to in Articles 15(2), 17,	for interrogation as referred to in	referred to in Articles 15(2), 17,	type of data used for interrogation as
18(1), 18 (5), 19(1), 19a(2), 19a(5),	Articles 15(2), 17, 18(1), 18 (5),	18(1), 18(5), 19(1), 19a(2), 19a(5),	referred to in Articles 15(2), 17,
,			
1	*	-	· · · · · · · · · · · · · · · · · · ·
-		•	-
		the data.	•
	· · · · · · · · · · · · · · · · · · ·		the data.
÷	1	-	
-		-	
		and Article 41 of the [Regulation	
establishing an Entry/Exit System	establishing an Entry/Exit System	establishing an Entry/Exit System	
(EES)]."	(EÉS)]."	(EES)]."	
Article 56	Article 56	Article 56	
Amendments to Regulation (EU) No	Amendments to Regulation (EU) No	Amendments to Regulation (EU) No	
1077/2011	1077/2011	1077/2011	
Regulation (EU) No 1077/2011 is	Regulation (EU) No 1077/2011 is	Regulation (EU) No 1077/2011 is	
	amended as follows:	amended as follows:	
(1) In Article 1, paragraph 2 is	(1) In Article 1, paragraph 2 is	(1) In Article 1, paragraph 2 is	
	for the operational management of	for the operational management of	
 20(1), 21(1) and 22(1) and the name of the authority entering or retrieving the data. In addition, each Member State shall keep records of the staff duly authorised to enter or retrieve the data. 1a. For the operations listed in Article 17a a record of each data processing operation carried out within the VIS and the EES shall be kept in accordance with this Article and Article 41 of the [Regulation establishing an Entry/Exit System (EES)]." Article 56 Amendments to Regulation (EU) No 1077/2011 Regulation (EU) No 1077/2011 is amended as follows: (1) In Article 1, paragraph 2 is 	19(1), 19a(2), 19a(5), 20(1), 21(1) and 22(1) and the name of the authority entering or retrieving the data. In addition, each Member State shall keep records of the staff duly authorised to enter or retrieve the data. 1a. For the operations listed in Article 17a a record of each data processing operation carried out within the VIS and the EES shall be kept in accordance with this Article and Article 41 of the [Regulation establishing an Entry/Exit System (EES)]." Article 56 Amendments to Regulation (EU) No 1077/2011 Regulation (EU) No 1077/2011 is amended as follows: (1) In Article 1, paragraph 2 is replaced by the following: "2. The Agency shall be responsible	20(1), 21(1) and 22(1) and the name of the authority entering or retrieving the data. In addition, each Member State shall keep records of the staff duly authorised to enter or retrieve the data. 1a. For the operations listed in Article 17a a record of each data processing operation carried out within the VIS and the EES shall be kept in accordance with this Article and Article 41 of the [Regulation establishing an Entry/Exit System (EES)]." Article 56 Amendments to Regulation (EU) No 1077/2011 Regulation (EU) No 1077/2011 is amended as follows: (1) In Article 1, paragraph 2 is replaced by the following: "2. The Agency shall be responsible	18(1), 18 (5), 19(1), 19a(2), 19a(5), 20(1), 21(1) and 22(1) and the name of the authority entering or retrievin the data. In addition, each Member State shall keep records of the staff duly authorised to enter or retrieve the data.



		1	
the second generation Schengen	the second generation Schengen	the second generation Schengen	
Information System (SIS II), the	Information System (SISTI), the	Information System (SIS II), the	
Visa Information System, Eurodac	Visa Information System, Eurodac	Visa Information System, Eurodac	
and the Entry/Exit System (EES).	and the Entry/Exit System (EES).	and the Entry/Exit System (EES).	
(2) A new Article 5a is added after	(2) A new Article 5a is added after	(2) A new Article 5a is added after	
Article 5:	Article 5:	Article 5:	
"Article 5a	"Article 5a	"Article 5a	
Tasks relating to the EES	Tasks relating to the EES	Tasks relating to the EES	
In relation to the EES, the Agency	In relation to the EES, the Agency	In relation to the EES, the Agency	
shall perform:	shall perform:	shall perform:	
(a) the tasks conferred on it by	(a) the tasks conferred on it by	(a) the tasks conferred on it by	
Regulation (EU) No XXX/20XX of	Regulation (EU) No XXX/20XX of	Regulation (EU) No XXX/20XX of	
the European Parliament and of the	the European Parliament and of the	the European Parliament and of the	
Council of X.X.X establishing an	Council of X.X.X establishing an	Council of X.X.X establishing an	
Entry/Exit System to register entry	Entry/Exit System to register entry	Entry/Exit System to register entry	
and exit data and refusal of entry	and exit data and refusal of entry	and exit data and refusal of entry	
data of third country nationals	data of third country nationals	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 European	Member States of the European	Member States of the European	
Union and determining the	Union and determining the	Union and determining the	
conditions for access to the EES for	conditions for access to the EES for	conditions for access to the EES for	
law enforcement purposes;	Yaw enforcement purposes;	law enforcement purposes;	
(b) tasks relating to training on the	(b) tasks relating to training on the	(b) tasks relating to training on the	
technical use of the EES."	technical use of the EES."	technical use of the EES."	
(3) Article 7 is amended as	(3) Article 7 is amended as	(3) Article 7 is amended as	
follows:	follows:	follows:	
(a) paragraphs 5 and 6 are	(a) paragraphs 5 and 6 are	(a) paragraphs 5 and 6 are	
replaced by the following:	replaced by the following:	replaced by the following:	
"5. Tasks related to the operational	"5. Tasks related to the operational	"5. Tasks related to the operational	
management of the communication	management of the communication	management of the communication	
infrastructure may be entrusted to	infrastructure may be entrusted to	infrastructure may be entrusted to	
external private-sector entities or	external private-sector entities or	external private-sector entities or	



		1	
bodies in accordance with	bodies in accordance with	bodies in accordance with	
Regulation (EC,	Regulation (EC,	Regulation (EC,	
Euratom)1605/2002. In such a case,	Euratom)1605/2002. In such a case,	Euratom)1605/2002. In such a case,	
the network provider shall be bound	the network provider shall be bound	the network provider shall be bound	
by the security measures referred to	by the security measures referred to	by the security measures referred to	
in paragraph 4 and shall have no	in paragraph 4 and shall have no	in paragraph 4 and shall have no	
access to SIS II, VIS, Eurodac or	access to SIS II, VIS, Eurodac or	access to SIS II, VIS, Eurodac or	
EES operational data, or to the SIS	EES operational data, or to the SIS	EES operational data, or to the SIS	
II-related SIRENE exchange, by any	II-related SIRENE exchange, by any	II-related SIRENE exchange, by any	
means.	means.	means.	
6. Without prejudice to the existing	6. Without prejudice to the existing	6. Without prejudice to the existing	
contracts on the network of SIS II,	contracts on the network of SIS II,	contracts on the network of SIS II,	
VIS, Eurodac and EES, the	VIS, Eurodac and EES, the	VIS, Eurodac and EES, the	
management of encryption keys shall	management of encryption keys shall	management of encryption keys shall	
remain within the comptence of the	remain within the comptence of the	remain within the competence of the	
Agency and shall not be outsourced	Agency and shall not be outsourced	Agency and shall not be outsourced	
to any external private-sector entity."	to any external private-sector entity."	to any external private-sector entity."	
(4) In Article 8, paragraph 1 is	(4) In Article 8, paragraph 1 is	(4) In Article 8, paragraph 1 is	
replaced by the following:	replaced by the following:	replaced by the following:	
"1. The Agency shall monitor the	"1. The Agency shall monitor the	"1. The Agency shall monitor the	
developments in research relevant	developments in research relevant	developments in research relevant	
for the operational management of	for the operational management of	for the operational management of	
SIS II, VIS, Eurodac, EES and other	SIS II, VIS, Eurodac, EES and other	SIS II, VIS, Eurodac, EES and other	
large-scale information systems".	large-scale information systems".	large-scale information systems".	
(5) In Article 12, paragraph 1 is	(5) In Article 12, paragraph 1 is	(5) In Article 12, paragraph 1 is	
amended as follows:	amended as follows:	amended as follows:	
(a) a new point (sa) is added after	(a) a new point (sa) is added after	(a) a new point (sa) is added after	
point (s):	point (s):	point (s):	
"(sa) adopt the reports on the	"(sa) adopt the reports on the	"(sa) adopt the reports on the	
development of the EES pursuant to	development of the EES pursuant to	development of the EES pursuant to	
Article 64(2) of Regulation (EU)	Article 64(2) of Regulation (EU)	Article 64(2) of Regulation (EU)	
XX/XX of XXX".	XX/XX of XXX".	XX/XX of XXX".	

(a) point (t) is replaced by the	(a) point (t) is replaced by the	(a) point (t) is replaced by the	
following:	following:	following:	
"(t) adopt the reports on the technical	"(t) adopt the reports on the technical	"(t) adopt the reports on the technical	
functioning of SIS II pursuant to	functioning of SIS II pursuant to	functioning of SIS II pursuant to	
Article 50(4) of Regulation (EC) No	Article 50(4) of Regulation (EC) No	Article 50(4) of Regulation (EC) No	
1987/2006 and Article 66(4) of	1987/2006 and Article 66(4) of	1987/2006 and Article 66(4) of	
	Decision 2007/533/JHA respectively,		
Decision 2007/533/JHA respectively,		Decision 2007/533/JHA respectively,	
of VIS pursuant to Article 50(3) of	of VIS pursuant to Article 50(3) of	of VIS pursuant to Article 50(3) of	
Regulation (EC) No 767/2008 and	Regulation (EC) No 767/2008 and	Regulation (EC) No 767/2008 and	
Article 17(3) of Decision	Article 17(3) of Decision	Article 17(3) of Decision	
2008/633/JHA and of EES pursuant	2008/633/JHA and of EES pursuant	2008/633/JHA and of EES pursuant	
to Article 64(4) of Regulation (EU)	to Article 64(4) of Regulation (EU)	to Article 64(4) of Regulation (EU)	
XX/XX of XXX."	XX/XX of XXX."	XX/XX of XXX."	
(b) point (v) is replaced by the	(b) point (v) is replaced by the	(b) point (v) is replaced by the	
following:	following:	following:	
"(v) make comments on the	"(v) make comments on the	"(v) make comments on the	
European Data Protection	European Data Protection	European Data Protection	
Supervisor's reports on the audits	Supervisor's reports on the audits	Supervisor's reports on the audits	
pursuant to Article 45(2) of	pursuant to Article 45(2) of	pursuant to Article 45(2) of	
Regulation (EC) No 1987/2006,	Regulation (EC) No 1987/2006,	Regulation (EC) No 1987/2006,	
Article 42(2) of Regulation (EC)	Article 42(2) of Regulation (EC)	Article 42(2) of Regulation (EC)	
No 767/2008, Article 31(2) of	No 767/2008, Article 31(2) of	No 767/2008, Article 31(2) of	
Regulation (EU) No 603/2013 and	Regulation (EU) No 603/2013 and	Regulation (EU) No 603/2013 and	
Article 50(2) of Regulation (EU)	Article 50(2) of Regulation (EU)	Article 50(2) of Regulation (EU)	
XX/XX of XXX and ensure	XX/XX of XXX and ensure	XX/XX of XXX and ensure	
appropriate follow-up of those	appropriate follow-up of those	appropriate follow-up of those	
audits".	audits".	audits".	

(b) a new point (xa) is inserted after	(b) a new point (xa) is inserted after	(b) a new point (xa) is inserted after	
point x:	point x:	point x:	
"(xa) publish statistics related to EES	"(xa) publish statistics related to EES	"(xa) publish statistics related to EES	
pursuant to Article 57 of Regulation	pursuant to Article 57 of Regulation	pursuant to Article 57 of Regulation	
(EU) No XXXX/XX.	(EU) No XXXX/XX.	(EU) No XXXX/XX.	
(c) a new point (za) is added to point	(c) a new point (za) is added to point	(c) a new point (za) is added to point	
z:	(c) a new point (za) is added to point	z:	
"(za) ensure annual publication of	"(za) ensure annual publication of	"(za) ensure annual publication of	
the list of competent authorities	the list of competent authorities	the list of competent authorities	
pursuant to Article 8(2) of	pursuant to Article 8(2) of	pursuant to Article 8(2) of	
1	1	1	
Regulation (EU) No XXXX/XX.	Regulation (EU) No XXXX/XX.	Regulation (EU) No XXXX/XX.	
(6) In Article 15, paragraph 4 is	(6) In Article 15, paragraph 4 is	(6) In Article 15, paragraph 4 is	
replaced by the following:	replaced by the following:	replaced by the following:	
"4. Europol and Eurojust may attend	"4. Europol and Eurojust may attend	"4. Europol and Eurojust may attend	
the meetings of the Management	the meetings of the Management	the meetings of the Management	
Board as observers when a question	Board as observers when a question	Board as observers when a question	
concerning SIS II, in relation to the	concerning SIS II, in relation to the	concerning SIS II, in relation to the	
application of Decision	application of Decision	application of Decision	
2007/533/JHA, is on the agenda.	2007/533/JHA, is on the agenda.	2007/533/JHA, is on the agenda.	
Europol may also attend the	Europol may also attend the	Europol may also attend the	
meetings of the Management Board	meetings of the Management Board	meetings of the Management Board	
as observer when a question	as observer when a question	as observer when a question	
concerning VIS, in relation to the	concerning VIS, in relation to the	concerning VIS, in relation to the	
application of Decision	application of Decision	application of Decision	
2008/633/JHA, or a question	2008/633/JHA, or a question	2008/633/JHA, or a question	
concerning Eurodac, in relation to	concerning Eurodac, in relation to	concerning Eurodac, in relation to	
the application of Regulation (EU)	the application of Regulation (EU)	the application of Regulation (EU)	
No 603/2013, or a question	No 603/2013, or a question	No 603/2013, or a question	
concerning EES in relation to the	concerning EES in relation to the	concerning EES in relation to the	
application of Regulation (EU)	application of Regulation (EU)	application of Regulation (EU)	
XX/XX of XXX is on the agenda".	XX/XX of XXX is on the agenda".	XX/XX of XXX is on the agenda".	

(7) In Article 17 paragraph 5, point		(7) In Article 17 paragraph 5, point	
(g) is replaced by the following:	(g) is replaced by the following:	(g) is replaced by the following:	
"(g) without prejudice to Article 17	"(g) without prejudice to Article 17/	"(g) without prejudice to Article 17	
of the Staff Regulations, establish	of the Staff Regulations, establish	of the Staff Regulations, establish	
confidentiality requirements in order	confidentiality requirements in order	confidentiality requirements in order	
to comply with Article 17 of	to comply with Article 17 of	to comply with Article 17 of	
Regulation (EC) No 1987/2006,	Regulation (EC) No 1987/2006,	Regulation (EC) No 1987/2006,	
Article 17 of Decision	Article 17 of Decision	Article 17 of Decision	
2007/533/JHA, Article 26(9) of	2007/533/JHA, Article 26(9) of	2007/533/JHA, Article 26(9) of	
Regulation (EC) No 767/2008,	Regulation (EC) No 767/2008,	Regulation (EC) No 767/2008,	
Article 4(4) of Regulation (EU)	Article 4(4) of Regulation (EU)	Article 4(4) of Regulation (EU)	
No 603/2013 and Article 34(4) of	No 603/2013 and Article 34(4) of	No 603/2013 and Article 34(4) of	
[Regulation (EU) XX/XX of XXX.]"	[Regulation (EU) XX/XX of XXX.]"	[Regulation (EU) XX/XX of XXX.]"	
(8) Article 19 is amended as	(8) Article 19 is amended as	(8) Article 19 is amended as	
follows:	follows:	follows:	
(a) paragraph 1 is replaced by the	(a) paragraph 1 is replaced by the	(a) paragraph 1 is replaced by the	
following:	following:	following:	
"1. The following Advisory Groups	"1. The following Advisory Groups	"1. The following Advisory Groups	
shall provide the Management Board	shall provide the Management Board	shall provide the Management Board	
with expertise relating to large-scale	with expertise relating to large-scale	with expertise relating to large-scale	
IT systems and, in particular, in the	IT systems and, in particular, in the	IT systems and, in particular, in the	
context of the preparation of the	context of the preparation of the	context of the preparation of the	
annual work programme and the	annual work programme and the	annual work programme and the	
annual activity report:	annual activity report:	annual activity report:	
(a) SIS II Advisory Group;	(a) SIS II Advisory Group;	(a) SIS II Advisory Group;	
(b) VIS Advisory Group;	(b) VIS Advisory Group;	(b) VIS Advisory Group;	
(c) Eurodac Advisory Group;	(c) Eurodac Advisory Group;	(c) Eurodac Advisory Group;	
(d) EES Advisory Group."	(d) EES Advisory Group."	(d) EES Advisory Group."	

(b) paragraph (3) is replaced by	(b) paragraph (3) is replaced by	(b) paragraph (3) is replaced by	
the following:	the following:	the following:	
"Europol and Eurojust may each	"Europol and Eurojust may each	"Europol and Eurojust may each	
appoint a representative to the SIS II	appoint a representative to the SIS II	appoint a representative to the SIS II	
Advisory Group. Europol may also	Advisory Group Europol may also	Advisory Group. Europol may also	
appoint a representative to the VIS,	appoint a representative to the VIS,	appoint a representative to the VIS,	
Eurodac and EES Advisory Groups".	Eurodac and EES Advisory Groups".	Eurodac and EES Advisory Groups".	



CHAPTER IX	CHAPTER IX	CHAPTER IX	
Final provisions	Final provisions	Final provisions	
Article 57	Article 57	Article 57	
Use of data for reporting and	Use of data f or reporting and	Use of data for reporting and	
statistics	statistics	statistics	
1. The duly authorised staff of the	1. The duly authorised staff of the	1. The duly authorised staff of the	Presidency encourages delegations
competent authorities of Member	competent authorities of Member	competent authorities of Member	to accept the following text: ³²
States, the Commission, eu-LISA	States, the Commission. eu-LISA	States, the Commission, eu-LISA	1. The duly authorised staff of the
and Frontex shall have access to	and Frontex and eu-LISA, shall have	and the European Border and Coast	competent authorities of Member
consult the following data, solely for	access to consult the following data,	Guard Agency established by	States, the Commission, eu-LISA
the purposes of reporting and	solely for the purposes of reporting	<u>Regulation (EU) 2016/1624 []</u>	shall have access to consult the
statistics without allowing for	and statistics without allowing for	shall have access to consult the	following data, solely for the
individual identification:	individual identification or profiling	following data, solely for the	purposes of reporting and statistics
	and the duly authorised staff of the	purposes of reporting and statistics	without allowing for individual
	European Border and Coast Guard	without allowing for individual	identification while ensuring non-
	Agency shall have access to consult	identification:	discrimination in accordance with
	the following data for the purpose		Article 9 of this Regulation and the
	of carrying out risk analyses and		European Border and Coast Guard
	vulnerability assessments as		Agency established by Regulation
	referred to in Articles 11 and 13 of		(EU) 2016/1624 shall have access to
	<i>Regulation (EU) 2016/1624</i> :		consult the following data for the
			purpose of carrying out risk
			analyses and vulnerability assessments as referred to in
			Articles 11 and 13 of Regulation (EU) 2016/1624:
(a) status information;	(a) status information;	(a) status information;	
(b) nationality, gender and date of	(b) nationality, gender and date	(b) nationality, gender and date of	Provisionally agreed:
birth of the third country national;	<i>year</i> of birth of the third country	birth of the third country national;	b) nationality, gender and year of
	national;		birth of the third country national;

³² Reserve: NL



(c) date and border crossing point	(c) date and border crossing point	(c) date and border crossing point	
of the entry to a Member State and	of the entry to a Member State and	of the entry to a Member State and	
date and border crossing point of the	date and border crossing point of the	date and border crossing point of the	
exit from a Member State;	exit from a Member State;	exit from a Member State;	
(d) the type of the travel document	(d) the type of the travel document	(d) the type of the travel document	
and three letter code of the issuing	and three letter code of the issuing	and three letter code of the issuing	
country;	country;	country;	
(e) number of overstayers referred	(e) number of overstayers referred	(e) number of overstayers referred	
to in Article 11, nationalities and	to in Article 11, nationalities and	to in Article 11, nationalities and	
border crossing point of entry;	border crossing point of entry;	border crossing point of entry;	
(f) the data entered in respect of	(f) the data entered in respect of	(f) the data entered in respect of	
any stay revoked or whose validity is	any stay revoked or whose validity is	any stay revoked or whose validity is	
extended:	extended;	extended;	
(g) the three letter code of the	(g) the three letter code of the	(g) the three letter code of the	Provisionally agreed:
Member State that issued the short	Member State that issued the short	Member State that issued the []	(g) the three letter code of the
stay visa, {or the touring visa} if	stay visa, {or the touring visa} if	visa, [] if applicable;	Member State that issued the visa,
applicable;	applicable;		[or the touring visa] if applicable;
(h) the number of persons exempt	(h) the number of persons exempt	(h) the number of persons exempt	[or the touring visa] it applicable;
		from the requirement to give	
from the requirement to give	from the requirement to give		
fingerprints pursuant to Article 15(2)	fingerprints pursuant to Article 15(2)	fingerprints pursuant to Article $15(2)$	
and (3);	and (3);	and (3);	
(i) the number of third country	(i) the number of third country	(i) the number of third country	Provisionally agreed:
nationals refused entry, the	nationals refused entry, the	nationals refused entry, the	(i) the number of third country
nationalities of third country	nationalities of third country	nationalities of third country	nationals refused entry, the
nationals refused entry and the type	nationals refused entry and the type	nationals refused entry and the type	nationalities of third country
of border (land, air or sea) and the	of border (land, air or sea) and the	of border (land, air or sea), [] the	nationals refused entry and the type
border crossing point at which entry	border crossing point at which entry	border crossing point at which entry	of border (land, air or sea), the
was refused.	was refused.	was refused and the grounds on	border crossing point at which entry
		which entry has been refused.	was refused and the grounds
			mentioned under article 16(2)(d) of
			this Regulation.



2. For the purpose of paragraph 1, eu-LISA shall establish, implement and host a central repository in its technical sites containing the data referred to in paragraph 1 which would not allow for the identification of individuals and would allow the authorities listed in paragraph 1 to obtain customisable reports and statistics on the entries and exits, refusals of entry and overstay of third country nationals to improve the assessment of the risk of overstay, to enhance the efficiency of border checks, to help consulates processing the visa applications and to support evidence-based Union migration policymaking. The	2. For the purpose of paragraph 1, eu-LISA shall establish, implement and host a central repository at a central level in its technical sites containing the data referred to in paragraph 1 which would not allow for the identification of individuals and would allow the authorities listed in paragraph 1 to obtain customisable reports and statistics on the entries and exits, refusals of entry and overstay of third country nationals to improve the assessment of the risk of overstay, to enhance the efficiency of border checks, to help consulates processing the visa applications and to support evidence-based Union migration policymaking. The	2. For the purpose of paragraph 1, eu-LISA shall establish, implement and host a central repository in its technical sites containing the data referred to in paragraph 1 which would not allow for the identification of individuals and would allow the authorities listed in paragraph 1 to obtain customisable reports and statistics on the entries and exits, refusals of entry and overstay of third country nationals to improve the assessment of the risk of overstay, to enhance the efficiency of border checks, to help consulates processing the visa applications and to support evidence-based Union migration policymaking. The	In order to have language which is as clear as possible, rather than referring to the 'Central Repositry', we refer to the 'repositary at a central level'. The wording under article 6 has also been aligned to reflect this change. Also, the EP argued that there should not be another reference to the assessment of the risk of overstay being that this is already covered in the paragraph. Could delegations accept the deletion of 'assessment of the risk of overstay': 2. For the purpose of paragraph 1, eu-LISA shall establish, implement
to support evidence-based Union migration policymaking. The repository shall also contain daily statistics on the data referred to in paragraph 4. Access to the central repository shall be granted by means of secured access through S-TESTA with control of access and specific user profiles solely for the purpose of reporting and statistics. Detailed rules on the operation of the central repository and the data protection and security rules applicable to the repository shall be adopted in accordance with the examination procedure referred to in Article 61(2).	to support evidence-based Union migration policymaking. The repository shall also contain daily statistics on the data referred to in paragraph 4. Access to the central repository shall be granted by means of secured access through S-TESTA with control of access and specific user profiles solely for the purpose of reporting and statistics.	to support evidence-based Union migration policymaking. The repository shall also contain daily statistics on the data referred to in paragraph 4. Access to the central repository shall be granted by means of secured access through S-TESTA with control of access and specific user profiles solely for the purpose of reporting and statistics. Detailed rules on the operation of the central repository and the data protection and security rules applicable to the repository shall be adopted in accordance with the examination procedure referred to in Article 61(2).	eu-LISA shall establish, implement and host a repository at a central level in its technical sites containing the data referred to in paragraph 1 which would not allow for the identification of individuals and would allow the authorities listed in paragraph 1 to obtain customisable reports and statistics on the entries and exits, refusals of entry and overstay of third country nationals [] to enhance the efficiency of border checks, to help consulates processing the visa applications and to support evidence-based Union migration policymaking. The



			repository shall also contain daily statistics on the data referred to in paragraph 4. Access to the central repository shall be granted by means of secured access through S-TESTA with control of access and specific user profiles solely for the purpose of reporting and statistics.
3. The procedures put in place by eu-LISA to monitor the development and the functioning of the EES referred to in Article 64(1) shall include the possibility to produce regular statistics for ensuring that monitoring.	3. The procedures put in place by eu-LISA to monitor the development and the functioning of the EES referred to in Article 64(1) shall include the possibility to produce regular statistics for ensuring that pronitoring.	3. The procedures put in place by eu-LISA to monitor the development and the functioning of the EES referred to in Article 64(1) shall include the possibility to produce regular statistics for ensuring that monitoring.	
 4. Every quarter, eu-LISA shall publish statistics on the EES showing in particular the number, nationality and border crossing point of entry of overstayers, of third country nationals who were refused entry, including the grounds for refusal, and of third country nationals whose stays were revoked or extended as well as the number of third country nationals exempt from the requirement to give fingerprints. 	4. Every quarter, eu-LISA shall publish statistics on the EES showing in particular the number, nationality, <i>age</i> , <i>gender</i> , <i>duration of stay</i> and border crossing point of entry of overstayers, of third country nationals who were refused entry, including the grounds for refusal, and of third country nationals whose stays were revoked or extended as well as the number of third country nationals exempt from the requirement to give fingerprints.	4. Every quarter, eu-LISA shall publish statistics on the EES showing in particular the number, nationality and border crossing point of entry of overstayers, of third country nationals who were refused entry, including the grounds for refusal, and of third country nationals whose stays were revoked or extended as well as the number of third country nationals exempt from the requirement to give fingerprints.	 EP explained that their addition is to align with the data that are mentioned under para 1. Presidency encourages delegations to accept the text: 4. Every quarter, eu-LISA shall publish statistics on the EES showing in particular the number, nationality, age, gender, duration of stay and border crossing point of entry of overstayers, of third country nationals who were refused entry, including the grounds for refusal, and of third country nationals whose stays were revoked or extended as well as the number of third country nationals exempt from the requirement to give fingerprints.



5. At the end of each year, statistical data shall be compiled in	5. At the end of each year, statistical data shall be compiled in	5. At the end of each year, statistical data shall be compiled in	<i>EP explained that at the end of the year, the quarterly statistics would</i>
-	-	-	· · · ·
the form of quarterly statistics for	an annual report for that year. The	the form of quarterly statistics for	be compiled into one report i.e. the
that year. The statistics shall contain	statistics shall contain a breakdown	that year. The statistics shall contain	reference of the EP amendment to an
a breakdown of data for each	of data for each Member State. The	a breakdown of data for each	'annual report'.
Member State.	report shall be published and	Member State.	The EP pointed out that the current
	transmitted to the European		article did not foresee to whom the
	Parliament, to the Council, to the		statistical data would be given once
	Commission, to the European Data		compiled. EP provided for this
	Protection Supervisor and to the		through their addition at the end of
	national supervisory authorities.		the paragraph. It was also suggested
			that the annual report is transmitted
			to Frontex.
			Could delegations accept the
			following text:
			5. At the end of each year,
			statistical data shall be compiled in
			an annual report for that year. The
			statistics shall contain a breakdown
			of data for each Member State. The
			report shall be published and
			transmitted to the European
			Parliament, to the Council, to the
			Commission, <u>to Frontex</u> , to the
			European Data Protection
			Supervisor and to the national
			supervisory authorities.
			supervisory authornes.

6. At the request of the Commission, eu-LISA shall provide it with statistics on specific aspects related to the implementation of this Regulation as well as the statistics pursuant to paragraph 3.	6. At the request of the Commission <i>and the European</i> <i>Parliament</i> , eu-LISA shall provide <i>them</i> with statistics on specific aspects related to the implementation of this Regulation as well as the statistics pursuant to paragraph 3.	6. At the request of the Commission, eu-LISA shall provide it with statistics on specific aspects related to the implementation of this Regulation as well as the statistics pursuant to paragraph 3.	 <i>EP withdrew their amendments.</i> <i>Provisionally agreed text:</i> 6. At the request of the Commission, eu-LISA shall provide it with statistics on specific aspects related to the implementation of this Regulation as well as the statistics pursuant to paragraph 3.
Article 58 Costs	Article 58 Costs	Article 58 Costs	
1.The costs incurred in connection with the establishment and operation of the Central System, the Communication Infrastructure and the National Uniform Interface shall be borne by the general budget of the Union.	1. The costs incurred in connection with the establishment and operation of the Central System, the <i>secure and encrypted</i> Communication Infrastructure and the National Uniform Interface shall be borne by the general budget of the Union.	1. The costs incurred in connection with the establishment and operation of the Central System, the Communication Infrastructure and the National Uniform Interface shall be borne by the general budget of the Union.	<i>Provisionally agreed</i> : 1. The costs incurred in connection with the establishment and operation of the Central System, the [Communication Infrastructure and the National Uniform Interface shall be borne by the general budget of the Union.
2. Costs incurred by the integration of the existing national border infrastructure and the connection to the National Uniform Interface as well as by hosting the National Uniform Interface shall be borne by the general budget of the Union.	2. Costs incurred by the integration of the existing national border infrastructure and the connection to the National Uniform Interface as well as by hosting the National Uniform Interface shall be borne by the general budget of the Union.	2 Costs incurred by the integration of the existing national [] infrastructure <u>necessary for</u> <u>border check</u> and the connection to the National Uniform Interface as well as by hosting the National Uniform Interface shall be borne by the general budget of the Union.	 Provisionally agreed: 2 Costs incurred by the integration of the existing national infrastructure necessary for border check and the connection to the National Uniform Interface as well as by hosting the National Uniform Interface shall be borne by the general budget of the Union.
 The following costs shall be excluded: (a) Member States' project management office (meetings, missions, offices); 	The following costs shall be excluded: (a) Member States' project management office (meetings, missions, offices);	The following costs shall be excluded: (a) Member States' project management office (meetings, missions, offices);	

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

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4. Each Member State and	4. Each Member State and	4. Each Member State and	 Provisionally agreed compromise text: 4. Each Member State and Europol shall set up and maintain at their expense the technical infrastructure necessary to implement the conditions in accordance with Chapter IV and shall be responsible for bearing the costs resulting from access to the
Europol shall set up and maintain at	Europol shall set up and maintain at	Europol shall set up and maintain at	
their expense the technical	their expense the technical	their expense the technical	
infrastructure necessary to	infrastructure necessary to	infrastructure necessary to	
implement Article 5(2) and shall be	implement Article 5(2) and shall be	implement Article [] <u>1(2)</u> and shall	
responsible for bearing the costs	responsible for bearing the costs	be responsible for bearing the costs	
resulting from access to the EES for	resulting from access to the EES for	resulting from access to the EES for	
that purpose.	that purpose.	that purpose.	
			EES for that purpose.
Article 59	Article 59	Article 59	
Notifications	Notifications	Notifications	
1. Member States shall notify the	1. Member States shall notify the	1. Member States shall notify the	
Commission of the authority which	Commission of the authority which	Commission of the authority which	
is to be considered as controller	is to be considered as controller	is to be considered as controller	
referred to in Article 49.	referred to in Article 49.	referred to in Article 49.	
2. Member States shall notify eu- LISA of the competent authorities referred to in Article 8 which have access to enter, amend, delete, consult or search data.	2. Member States shall notify eu- LISA of the competent authorities referred to in Article 8 which have access to enter, amend, delete, consult or search data.	2. Member States shall notify eu- LISA of the competent authorities referred to in Article 8 which have access to enter, amend, delete, consult or search data.	 Provisionally agreed: 2. Member States shall notify eu- LISA of the competent authorities referred to in Article 8 which have access to enter, amend, delete, consult or search data and shall notify without delay any amendment thereto.
3. Member States shall notify the	3. Member States shall notify the	3. Member States shall notify the	 Provisionally agreed text: 3. Member States shall notify the
Commission of their designated	Commission of their designated	Commission <u>and eu-LISA</u> of their	Commission and eu-LISA of their
authorities and of their central access	authorities and of their central access	designated authorities and of their	designated authorities and of their
points referred to in Article 26 and	points referred to in Article 26 and	central access points referred to in	central access points referred to in
shall notify without delay any	shall notify without delay any	Article 26 and shall notify without	Article 26 and shall notify without
amendments thereto.	amendments thereto.	delay any amendments thereto.	delay any amendments thereto.



4. Europol shall notify the	4. Europol shall notify the	4. Europol shall notify the	 Provisionally agreed text: 4. Europol shall notify the
Commission of its designated	Commission of its designated	Commission <u>and eu-LISA</u> of its	Commission and eu-LISA of its
authority and its central access point	authority and its central access point	designated authority and its central	designated authority and its central
referred to in Article 27 and shall	referred to in Article 27 and shall	access point referred to in Article 27	access point referred to in Article 27
notify without delay any	notify without delay any	and shall notify without delay any	and shall notify without delay any
amendments thereto.	amendments thereto.	amendments thereto.	amendments thereto.
 5. eu-LISA shall notify the Commission of the successful completion of the test referred to in Article 60(1)(b). 6. Commission shall make the information notified pursuant to paragraph 1 available to the Member States and the public by a constantly updated public website. 	 5. eu-LISA shall notify the Commission of the successful completion of the test referred to in Article 60(1)(b). 6. The Commission shall make publish the information notified pursuant referred to paragraph in paragraphs 1 to 4 in the Official Journal of the European Union. Where there are amendments thereto, the Commission shall publish once a year an updated consolidated version of this information. The Commission shall maintain available to the Member States and the public by a constantly updated public website containing this information. 	 5. eu-LISA shall notify the Commission of the successful completion of the test referred to in Article 60(1)(b). 6. Commission shall make the information notified pursuant to paragraph 1 available to the Member States and the public by a constantly updated public website. 	To be consistent throughout the text, notifications should be put under Article 59. Therefore, the notification mentioned under article 8(2) second sub-para, is moved here. Text in [] brackets: [6. Commission shall make the information notified pursuant to paragraph 1 available to the Member States and the public by a constantly updated public website. Within three months after the EES has started operations in accordance with Article 60, a consolidated list of those authorities shall be published in the Official Journal of the European Union. Where there are amendments thereto, eu-LISA shall publish an updated consolidated list once a year.]

		6a. The Commission shall publish	Deletion provisionally agreed.
		the information referred to in	Detetion provisionally agreed.
		paragraphs 3 and 4 in the Official	
		Journal of the European Union on an	
		annual basis and via an electronic	
		publication that shall be available	
		online and updated without delay.	
Article 60	Article 60	Article 60	
Start of operations	Start of operations	Start of operations	
1. The Commission shall	1. The Commission shall	1. The Commission shall	
determine the date from which the	determine the date from which the	determine the date from which the	
EES is to start operations, after the	EES is to start operations, after the	EES is to start operations, after the	
following conditions are met:	following conditions are met:	following conditions are met:	
(a) the measures referred to in	(a) the measures referred to in	(a) the measures referred to in	
Article 33 have been adopted;	Article 33 have been adopted;	Article 33 have been adopted;	
(b) eu-LISA has declared the	(b) eu-LISA has declared the	(b) eu-LISA has declared the	
successful completion of a	successful completion of a	successful completion of a	
comprehensive test of the EES,	comprehensive test of the EES,	comprehensive test of the EES,	
which shall be conducted by eu-	which shall be conducted by eu-	which shall be conducted by eu-	
LISA in cooperation with the	LISA in cooperation with the	LISA in cooperation with the	
Member States;	Member States:	Member States;	
(c) the Member States have	(c) the Member States have	(c) the Member States have	
validated the technical and legal	validated the technical and legal	validated the technical and legal	
arrangements to collect and transmit	arrangements to collect and transmit	arrangements to collect and transmit	
the data referred to in Articles 14 to	the data referred to in Articles 14 to	the data referred to in Articles 14 to	
18 to the EES and have notified them	18 to the EES and have notified them	18 to the EES and have notified them	
to the Commission;	to the Commission;	to the Commission;	
(d) the Member States have	(d) the Member States have	(d) the Member States have	
completed the notifications to the	completed the notifications to the	completed the notifications to the	
Commission referred to in Article 59	Commission referred to in Article 59	Commission referred to in Article 59	
(1) and (3).	(1) and (3).	(1) and (3).	

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



2 The Commission shall inform	2 The Commission shall inform	
1	±	
	* * *	
3. The Commission decision		
referred to in paragraph 1 shall be	referred to in paragraph 1 and 1b	
published in the Official Journal.	shall be published in the Official	
	Journal.	
4. The Member States and	4. The Member States and	
Europol shall start using the EES	Europol shall start using the EES	
1 0/	1 0	
Commission in accordance with	Commission in accordance with	
paragraph 1.	paragraph 1 or where applicable with	
	paragraph 1b.	
Article 61	Article 61	
Committee procedure	Committee procedure	
1. The Commission shall be	1. The Commission shall be	
assisted by a committee. That	assisted by a committee. That	
committee shall be a committee	committee shall be a committee	
within the meaning of Regulation	within the meaning of Regulation	
	0 0	
	1 0 1	
	-	
	 published in the Official Journal. 4. The Member States and Europol shall start using the EES from the date determined by the Commission in accordance with paragraph 1. <u>Article 61</u> <u>Committee procedure</u> 1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011. 	the European Parliament and the Council of the results of the test carried out pursuant to point (b) of paragraph 1.the European Parliament and the Council of the results of the test carried out pursuant to point (b) of paragraph 1.3. The Commission decision referred to in paragraph 1 shall be published in the Official Journal.3. The Commission decision referred to in paragraph 1 and 1b shall be published in the Official Journal.4. The Member States and Europol shall start using the EES from the date determined by the Commission in accordance with paragraph 1.4. The Member States and Europol shall start using the EES from the date determined by the Commission in accordance with paragraph 1.4. The Member States and Europol shall start using the EES from the date determined by the Commission in accordance with paragraph 1.Article 61Article 61 Committee procedure1. The Commission shall be assisted by a committee within the meaning of Regulation (EU) No 182/2011.1. The Commission shall be assisted by a committee

Article 62	Article 62	Article 62	
Advisory group	Advisory group	Advisory group	
An Advisory Group shall be	An Advisory Group shall be	An Advisory Group shall be	Provisionally agreed:
established by eu-LISA and provide	established by eu-LISA and provide	established by eu-LISA and provide	An Advisory Group shall be
it with the expertise related to the	it with the expertise related to the	it with the expertise related to the	established by eu-LISA and provide
EES in particular in the context of	EES in particular in the context of	EES in particular in the context of	it with the expertise related to the
the preparation of its annual work	the preparation of its annual work	the preparation of its annual work	EES in particular in the context of
programme and its annual activity	programme and its annual activity	programme and its annual activity	the preparation of its annual work
report.	report.	report. During the design and	programme and its annual activity
Teport.	report.	development phase, Article 34(2)	report. During the design and
		applies.	development phase, Article 34(2)
		<u>appres.</u>	applies.
Article 63	Article 63	Article 63	applies.
Training	Training	Training	
eu-LISA shall perform tasks related	eu-LISA shall perform tasks related	eu-LISA shall perform tasks related	Provisionally agreed:
to providing training on the technical	to providing training on the technical	to providing training on the technical	eu-LISA shall perform tasks related
use of the EES.	use of the EES.	use of the EES in accordance with	to providing training on the technical
use of the EES.	use of the LED.	the relevant provisions in Regulation	use of the EES in accordance with
		1077/2011.	the relevant provisions in Regulation
		<u>10///2011</u> .	1077/2011.
		Article 63a	Provisionally agreed :
		Practical Handbook	Article 63a
			Practical Handbook
		The Commission shall, in close	Provisionally agreed:
		cooperation with the Member States,	The Commission shall, in close
		eu-LISA and other relevant agencies,	cooperation with the Member States,
		make available a practical handbook	eu-LISA and other relevant agencies,
		for the implementation and	make available a practical handbook
		management of the EES. The	for the implementation and
		Handbook shall provide technical	management of the EES. The
		and operational guidelines,	Handbook shall provide technical
		recommendations and best practices.	and operational guidelines,
		The Commission shall adopt the	recommendations and best practices.

EN

		Handbook in the form of a	The Commission shall adopt the
		recommendation.	Handbook in the form of a
			recommendation.
Article 64	Article 64	Article 64	
Monitoring and evaluation	Monitoring and evaluation	Monitoring and evaluation	
1. eu-LISA shall ensure that	1. eu-LISA shall ensure that	1. eu-LISA shall ensure that	
procedures are in place to monitor	procedures are in place to monitor	procedures are in place to monitor	
the development of the EES in light	the development of the EES in light	the development of the EES in light	
of objectives relating to planning and	of objectives relating to planning and	of objectives relating to planning and	
costs and to monitor the functioning	costs and to monitor the functioning	costs and to monitor the functioning	
of the EES in light of objectives	of the EES in hight of objectives	of the EES in light of objectives	
relating to the technical output, cost-	relating to the technical output, cost-	relating to the technical output, cost-	
effectiveness, security and quality of	effectiveness, security and quality of	effectiveness, security and quality of	
service.	service.	service.	
2. By [Six months after the entry	2. By [Six months after the entry	2. By [Six months after the entry	LIBE suggestion
into force of this Regulation –	into force of this Regulation –	into force of this Regulation –	2. By [Six months after the entry
OPOCE, please replace with the	OPOCE, please replace with the	OPOCE, please replace with the	into force of this Regulation –
actual date] and every six months	actual date] and every six months	actual date] and every six months	OPOCE, please replace with the
thereafter during the development	thereafter during the development	thereafter during the development	actual date] and every six months
phase of the EES, eu-LISA shall	phase of the EES, eu-LISA shall	phase of the EES, eu-LISA shall	thereafter during the development
submit a report to the European	submit a report to the European	submit a report to the European	phase of the EES, eu-LISA shall
Parliament and the Council on the	Parliament and the Council on the	Parliament and the Council on the	submit a report to the European
state of play of the development of	state of play of the development of	state of play of the development of	Parliament and the Council on the
the Central System, the Uniform	the Central System, the Uniform	the Central System, the Uniform	state of play of the development of
Interfaces and the Communication	Interfaces and the secure and	Interfaces and the Communication	the Central System, the Uniform
Infrastructure between the Central	encrypted Communication	Infrastructure between the Central	Interfaces and the Communication
System and the Uniform Interfaces.	Infrastructure between the Central	System and the Uniform Interfaces.	Infrastructure between the Central
Once the development is finalised, a	System and the Uniform Interfaces.	Once the development is finalised, a	System and the Uniform Interfaces.
report shall be submitted to the	This report shall contain detailed	report shall be submitted to the	This report shall contain detailed
European Parliament and the Council	information about the costs	European Parliament and the Council	information about the costs
explaining in detail how the	incurred and information as to any	explaining in detail how the	incurred and information as to any
objectives, in particular relating to	risks which may impact on the	objectives, in particular relating to	risks which may impact on the
planning and costs, were achieved as	overall costs of the system. Once the	planning and costs, were achieved as	overall costs of the system to be

well as justifying any divergences.	development is finalised, a report shall be submitted to the European Parliament and the Council explaining in detail how the objectives, in particular relating to planning and costs, were achieved as well as justifying any divergences.	well as justifying any divergences.	borne by the general budget of the Union in accordance with Article 58(1) and (2) first subparagraph. Once the development is finalised, a report shall be submitted to the European Parliament and the Council explaining in detail how the objectives, in particular relating to planning and costs, were achieved as well as justifying any divergences.
3. For the purposes of technical	3. For the purposes of technical	3. For the purposes of technical	
maintenance, eu-LISA shall have	maintenance, eu-LISA shall have	maintenance, eu-LISA shall have	
access to the necessary information	access to the necessary information	access to the necessary information	
relating to the data processing	relating to the data processing	relating to the data processing	
operations performed in the EES.	operations performed in the EES.	operations performed in the EES.	
4. Two years after the start of	4. Two years after the start of	4. Two years after the start of	
operations of the EES and every two	operations of the EES and every two	operations of the EES and every two	
years thereafter, eu-LISA shall	years thereafter, eu-LISA shall	years thereafter, eu-LISA shall	
submit to the European Parliament,	submit to the European Parliament,	submit to the European Parliament,	
the Council and the Commission a	the Council and the Commission a	the Council and the Commission a	
report on the technical functioning of	report on the technical functioning of	report on the technical functioning of	
EES, including the security thereof.	EES, including the security thereof.	EES, including the security thereof.	
5. Three years after the start of	5. Three years after the start of	5. Three years after the start of	Text is [] brackets is still open to
operations of the EES and every four	operations of the EES and every four	operations of the EES and every four	discussion with the EP. Presidency
years thereafter, the Commission	years thereafter, the Commission	years thereafter, the Commission	encourages delegations to accept the
shall produce an overall evaluation	shall produce an overall evaluation	shall produce an overall evaluation	following compromise text:
of the EES. This overall evaluation	of the EES. This overall evaluation	of the EES. This overall evaluation	5. Three years after the start of
shall include an examination of	shall include an examination of	shall include an assessment of the	operations of the EES and every four
results achieved against objectives	results achieved against objectives	application of the Regulation; an	years thereafter, the Commission
and the impact on fundamental	and the impact on fundamental	examination of results achieved	shall produce an overall evaluation
rights, and assessing the continuing	rights, and assessing the continuing	against objectives and the impact on	of the EES. This overall evaluation
validity of the underlying rationale,	validity of the underlying rationale,	fundamental rights [] <u>;</u> [] <u>an</u>	shall include an assessment of the
the application of the Regulation, the	the application of the Regulation, the	assessment of the continuing validity	application of the Regulation; an

security of the EES and any implications on future operations, and shall make any necessary recommendations. The Commission shall transmit the evaluation report to the European Parliament and the Council.	security of the EES and any implications <i>including those with a</i> <i>budgetary impact</i> on future operations, and shall make any necessary recommendations. The Commission shall transmit the evaluation report to the European Parliament, and the the Council, <i>the</i> <i>European Data Protection</i> <i>Supervisor and the European</i> <i>Agency for Fundamental Rights</i> .	of the underlying rationale, <u>of the</u> <u>adequacy of the biometric data</u> <u>required for the proper functioning of</u> <u>the EES, of the use of stamps in the</u> <u>exceptional circumstances referred to</u> <u>under Article 19(2), of the practical</u> <u>implications of the application of</u> <u>Article 54, [] of the security of the</u> <u>EES and <u>of</u> any implications on future operations. <u>The evaluation</u> [] shall <u>include []</u> any necessary recommendations. The Commission shall transmit the evaluation report to the European Parliament and the Council.</u>	examination of results achieved against objectives and the impact on fundamental rights; an assessment of the continuing validity of the underlying rationale, of the adequacy of the biometric data <u>used</u> for the proper functioning of the EES, [of the use of stamps in the exceptional circumstances referred to under Article 19(2), of the practical implications of the application of Article 54,] of the security of the EES and of any implications including those with a Union budgetary impact on future operations. The evaluation shall include any necessary recommendations. The Commission shall transmit the evaluation report to the European Parliament, the Council, the European Data Protection Supervisor and the European Agency for Fundamental Rights.
6. The Member States and	6. The Member States and	6. The Member States and	
Europol shall provide eu-LISA and	Europol shall provide eu-LISA and	Europol shall provide eu-LISA and	
the Commission with the information	the Commission with the information	the Commission with the information	
necessary to draft the reports referred	necessary to draft the reports referred	necessary to draft the reports referred	
to in paragraphs 4 and 5 according to	to in paragraphs 4 and 5 according to	to in paragraphs 4 and 5 according to	
the quantitative indicators predefined	the quantitative indicators predefined	the quantitative indicators predefined	
by the Commission and/or eu-LISA.	by the Commission and/or eu-LISA.	by the Commission and/or eu-LISA.	
This information shall not jeopardise	This information shall not jeopardise	This information shall not jeopardise	
working methods or include	working methods or include	working methods or include	



		1	
information that reveals sources,	information that reveals sources,	information that reveals sources,	
staff members or investigations of	staff members or investigations of	staff members or investigations of	
the designated authorities.	the designated authorities.	the designated authorities.	
7. eu-LISA shall provide the	7. eu-LISA shall provide the	7. eu-LISA shall provide the	
Commission with the information	Commission with the information	Commission with the information	
necessary to produce the overall	necessary to produce the overall	necessary to produce the overall	
evaluations referred to in	evaluations referred to in	evaluations referred to in paragraph	
paragraph 5.	paragraph 5.	5.	
8. While respecting the	8. While respecting the	8. While respecting the	Presidency encourages delegations
provisions of national law on the	provisions of national law on the	provisions of national law on the	to accept the following text:
publication of sensitive information,	publication of sensitive information,	publication of sensitive information,	8. While respecting the
each Member State and Europol shall	each Member State and Europol shall	each Member State and Europol shall	provisions of national law on the
prepare annual reports on the	prepare annual reports on the	prepare annual reports on the	publication of sensitive information,
effectiveness of access to EES data	effectiveness of access to EES data	effectiveness of access to EES data	each Member State and Europol shall
for law enforcement purposes	for law enforcement purposes	for law enforcement purposes	prepare annual reports on the
containing information and statistics	containing information and statistics	containing [] statistics on:	effectiveness of access to EES data
on:	on:		for law enforcement purposes
			containing information and
			statistics on:
(a) - the exact purpose of the	(a) - the exact purpose of the	(a) []whether <u>the consultation</u>	Provisionally agreed :
consultation (whether for	consultation (whether for	was made for the purpose of	(a) whether the consultation was
identification or for entry/exit	identification or for entry/exit	identification or for entry/exit	made for the purpose of
records) including the type of	records) including the type of	records, <u>and []</u> the type of terrorist	identification or for entry/exit
terrorist or serious criminal offence;	terrorist or serious criminal offence;	or serious criminal offence;	records, and the type of terrorist or
			serious criminal offence;
(b) - reasonable grounds given for	(b) - reasonable grounds given for	(b) [] <u>the</u> grounds given <u>to</u> []	Provisionally agreed:
the substantiated suspicion that the	the substantiated suspicion that the	substantiate the suspicion that the	(b) the grounds given to
suspect, perpetrator or victim is	suspect, perpetrator or victim is	[] <u>person concerned</u> is covered by	substantiate the suspicion that the
covered by this Regulation;	covered by this Regulation;	this Regulation;	person concerned is covered by this
			Regulation;

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(c) - the reasonable grounds given	(c) - the reasonable grounds given	(c) the [] grounds given not to	Provisionally agreed:
not to conduct consultation of other	not to conduct consultation of other	[] launch the consultation of other	c) the grounds given not to launch
Member States' automated	Member States' automated	Member States' automated	the consultation of other Member
fingerprint identification systems	fingerprint identification systems	fingerprint identification systems	States' automated fingerprint
under Decision 2008/615/JHA in	under Decision 2008/615/JHA in	under Decision 2008/615/JHA in	identification systems under
accordance with Article 29(2)(b);	accordance with Article 29(2)(b);	accordance with Article 29(2)(b);	Decision 2008/615/JHA in
			accordance with Article 29(2)(b);
(d) - the number of requests for	(d) - the number of requests for	(d) the number of requests for	
access to the EES for law	access to the EES for law	access to the EES for law	
enforcement purposes;	enforcement purposes;	enforcement purposes;	
(e) - the number and type of cases	(e) - the number and type of cases	(e) the number and type of cases <u>in</u>	Provisionally agreed:
which have ended in successful	which have ended in successful	which access to the EES for law	(e) the number and type of cases in
identifications;	identifications;	enforcement purposes led to []	which access to the EES for law
		successful identifications;	enforcement purposes led to
			successful identifications;
(f) - the need and use made of the	(f) - the need and use made of the	(f) the [] <u>number and type of</u>	Provisionally agreed:
exceptional case of urgency	exceptional case of urgency	cases in which the urgency procedure	(f) the number and type of cases in
including those cases where that	including those cases where that	was used, including those cases	which the urgency procedure was
urgency was not accepted by the ex	urgency was not accepted by the ex	where that urgency was not accepted	used, including those cases where
post verification carried out by the	post verification carried out by the	by the ex post verification carried out	that urgency was not accepted by the
central access point.	central access point.	by the central access point.	ex post verification carried out by the
			central access point.
	(fa) the number of requests for		This provision is better placed either
	corrections of data, the action		under article 49(2) or article 51(4).
	subsequently taken and the number		To revert back.
	of corrections made in response to		
	requests by the persons concerned		
Member States' and Europol's	Member States' and Europol's	eu-LISA shall draw up templates to	Provisionally agreed:
annual reports shall be transmitted to	annual reports shall be transmitted to	facilitate collection of the	eu-LISA shall draw up templates to
the Commission by 30 June of the	the Commission by 30 June of the	information in this paragraph. These	facilitate collection of the
subsequent year.	subsequent year.	templates shall be available to the	information in this paragraph. These
		Member States.	templates shall be available to the
		Member States' and Europol's	Member States.



Article 65 Entry into force and applicability This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.	Article 65 Entry into force and applicability This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. This Regulation shall apply from the date determined by the Commission in accordance with Article 60, with the exception of Articles 4, 33, 34, 35, 56, 58, 59, 60 and 61, which shall apply from the date of entry into force of this Regulation. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.	annual reports shall be transmitted to the Commission by 30 June of the subsequent year. <u>Article 65</u> <u>Entry into force and applicability</u> This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.	Member States' and Europol's annual reports shall be transmitted to the Commission by 30 June of the subsequent year. <i>The EP amendment aims to</i> <i>differentiate between those</i> <i>provisions that will be applicable as</i> <i>from the date of entry into force of</i> <i>the Regulation and other provisions</i> <i>that will apply from when the EES</i> <i>starts operating.</i> <i>Provisionally agreed text pending</i> <i>verification of the listed articles:</i> This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union. This Regulation shall apply from the date determined by the Commission in accordance with Article 60, with the exception of Articles [4, 33, 34, 35, 56, 58, 59, 60 and 61,] which shall apply from the date of entry into force of this Regulation. This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.
Done at Brussels,	Done at Brussels,	Done at Brussels,	
For the EPFor the CouncilThe PresidentThe President	For the EPFor the CouncilThe PresidentThe President	For the EPFor the CouncilThe PresidentThe President	





ANNEX I	ANNEX I	ANNEX I	
List of international organisations referred to in Article 38(2)	List of international organisations referred to in Article 38(2)	[] <u>I</u> nternational organisations[] authorised to request data under Article 38(2)	Provisionally agreed: List of international organisations referred to in Article 38(2)
1. UN organisations (such as UNHCR);	1. UN organisations (such as UNHCR);	1. UN organisations (such as UNHCR);	
2. International Organization for Migration (IOM);	2. International Organization for Migration (IOM);	2. International Organization for Migration (IOM);	
3. The International Committee of the Red Cross.	3. The International Committee of the Red Cross.	3. The International Committee of the Red Cross.	
		<u>ANNEX II</u>	All of the Annex provisionally agreed by the EP
		<u>The specific provisions for third</u> <u>country nationals who perform their</u> <u>border crossing on the basis of a</u> <u>valid Facilitated Transit Document</u>	Provisionally agreed text: The specific provisions for third country nationals who perform their border crossing on the basis of a valid Facilitated Transit Document
		(1) By way of derogation from Article 14(1) to (3) of this Regulation, for third country nationals who perform their border crossing on the basis of a valid Facilitated Transit Document (FTD) issued in accordance with Regulation (EC) 693/2003, the border check authorities shall:	 Provisionally agreed text: (1) By way of derogation from Article 14(1) to (3) of this Regulation, for third country nationals who perform their border crossing on the basis of a valid Facilitated Transit Document (FTD) issued in accordance with Regulation (EC) 693/2003, the border authorities shall:
		a) <u>create/update their individual</u> <u>file which shall contain the data</u> <u>foreseen under Article 15(1) (a), (b)</u> <u>and (c) of this Regulation. In</u> <u>addition, their individual file shall</u>	Provisionally agreed text: a) create/update their individual file which shall contain the data foreseen under Article 15(1) (a), (b) and (c) of this Regulation. In

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



	(3) Article 14(3) and (4) of this	Provisionally agreed:
	Regulation shall be applicable	(3) Article $14(3)$ and (4) of this
	mutatis mutandis to third country	Regulation shall be applicable
	nationals holding a Facilitated	mutatis mutandis to third country
	Transit Document (FTD) issued in	nationals holding a Facilitated
	accordance with Regulation (EC)	Transit Document (FTD) issued in
	693/2003.	accordance with Regulation (EC)
		693/2003.
	(4) For verification at a border at	Provisionally agreed:
	which the EES is operated and within	(4) For verification at a border at
	the territories of the Member States,	which the EES is operated and within
	third country nationals who perform	the territories of the Member States,
	their border crossing on the basis of a	third country nationals who perform
	valid Facilitated Transit Document	their border crossing on the basis of a
	(FTD) shall be subject mutatis	valid Facilitated Transit Document
	mutandis to the verifications and	(FTD) shall be subject mutatis
	identifications provided under	mutandis to the verifications and
	Articles 21 and 24 of this Regulation	identifications provided under
	and Articles 18 and 19a of	Articles 21 and 24 of this Regulation
	Regulation (EC) No 767/2008 that	and Articles 18 and 19a of
	are applicable to third country	Regulation (EC) No 767/2008 that
	nationals who are not subject to a	are applicable to third country
	visa requirement.	nationals who are not subject to a
		visa requirement.

	(5) The provisions of paragraph 1	Provisionally agreed:
	to 4 shall not apply to third country	(5) The provisions of paragraph 1
	nationals who perform their border	to 4 shall not apply to third country
	crossing on the basis of a valid	nationals who perform their border
	Facilitated Transit Document (FTD)	crossing on the basis of a valid
	issued in accordance with Regulation	Facilitated Transit Document (FTD)
	(EC) 693/2003 provided that the	issued in accordance with Regulation
	following cumulative conditions are	(EC) 693/2003 provided that the
	met:	following cumulative conditions are
		met:
	(a) they perform their transit by	Provisionally agreed:
	<u>train:</u>	(a) they perform their transit by
		train;
	(b) they do not disembark in the	Provisionally agreed:
	territory of a Member State.	(b) they do not disembark in the
		territory of a Member State.