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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 amending Regulation (EU) No 2016/399 as regards the use of the Entry/Exit System

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

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4-column table on the **Regulation of the European Parliament and of the Council amending Regulation (EU) No 2016/399 as regards the use of the Entry/Exit System** which comprises the Commission proposal, the mandate for negotiations as voted in the LIBE Committee of the EP on 27/02 and the Coreper mandate of 2 March 2017.

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

- Second column with EP Position: new text is marked in bold italics; deleted parts of the text are marked in strikethrough, text identical with the Commission proposal is marked with a diagonal line in the box.
- Third column with Coreper mandate: new text is marked in underlined; deleted parts of the text are marked in [...]
- Fourth column: the diagonal line in the box indicates that the text is identical for all three institutions.

NB: Art. 8 SBC is reproduced in full, with a supplementary column which includes the current version of it (following the entry into force of Regulation (EU) 2017/458). Parts of Art. 8 not modified by the current proposal are in grey rows.

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 2016/399 as regards the use of the Entry/Exit System			
COMMISSION PROPOSAL	EP POSITION	COUNCIL POSITION	COMPROMISE
THE EUROPEAN PARLIAMENT	THE EUROPEAN PARLIAMENT	THE EUROPEAN PARLIAMENT	
AND THE COUNCIL OF THE	AND THE COUNCIL OF THE	AND THE COUNCIL OF THE	
EUROPEAN UNION,	EUROPEAN UNION,	EUROPEAN UNION,	
Having regard to the Treaty on the	Having regard to the Treaty on the	Having regard to the Treaty on the	
Functioning of the European Union,	Functioning of the European Union,	Functioning of the European Union,	
and in particular Articles 77(2)(b)	and in particular Articles 77(2)(b)	and in particular Articles 77(2)(b)	
thereof,	thereof,	thereof,	
Having regard to the proposal from	Having regard to the proposal from	Having regard to the proposal from	
the European Commission,	the European Commission,	the European Commission,	
After transmission of the draft	After transmission of the draft	After transmission of the draft	
legislative act to the national	legislative act to the national	legislative act to the national	
parliaments,	parliaments,	parliaments,	
Having regard to the opinion of the	Having regard to the opinion of the	Having regard to the opinion of the	
European Economic and Social	European Economic and Social	European Economic and Social	
Committee,	Committee,	Committee,	
Having regard to the opinion of the	Having regard to the opinion of the	Having regard to the opinion of the	
Committee of the Regions,	Committee of the Regions,	Committee of the Regions,	
Acting in accordance with the	Acting in accordance with the	Acting in accordance with the	
ordinary legislative procedure,	ordinary legislative procedure,	ordinary legislative procedure,	
Whereas:	Whereas:	Whereas:	

(1) Regulation (EU) 2016/399 of	(1) Regulation (EU) 2016/399 of	(1) Regulation (EU) 2016/399 of	
the European Parliament and of the	the European Parliament and of the	the European Parliament and of the	
Council of 9 March 2016 on a Union	Council of 9 March 2016 on a Union	Council of 9 March 2016 on a Union	
Code on the rules governing the	Code on the rules governing the	Code on the rules governing the	
movement of persons across borders	movement of persons across borders	movement of persons across borders	
(Schengen Borders Code) <sup>1</sup> lays down	(Schengen Borders Code) <sup>1</sup> lays down	(Schengen Borders Code) <sup>1</sup> lays down	
the conditions, criteria and detailed	the conditions, criteria and detailed	the conditions, criteria and detailed	
rules for the crossing of the external	rules for the crossing of the external	rules for the crossing of the external	
borders of the Member States.	borders of the Member States.	borders of the Member States.	
(2) [Regulation (EU) N° XXX of	(2) [Regulation (EU) N° XXX of /	(2) [Regulation (EU) N° XXX of	
the European Parliament and of the	the European Parliament and of the	the European Parliament and of the	
Council establishing the Entry/Exit	Council establishing the Entry/Exit	Council establishing the Entry/Exit	
System ('EES') to register entry and	System ('EES') to register entry and	System ('EES') to register entry and	
exit data and refusal of entry data of	exit data and refusal of entry data of	exit data and refusal of entry data of	
third country nationals crossing the	third country nationals crossing the	third country nationals crossing the	
external borders of the Member	external borders of the Member	external borders of the Member	
States of the European Union and	States of the European Union and	States of the European Union and	
determining the conditions for access	determining the conditions for access	determining the conditions for access	
to the EES for law enforcement	to the EES for law enforcement	to the EES for law enforcement	
purposes] <sup>2</sup> aims at creating a	purposes] <sup>2</sup> aims at creating a	purposes] <sup>2</sup> aims at creating a	
centralised system for the registration	centralised system for the registration	centralised system for the registration	
of entry and exit data and refusal of	of entry and exit data and refusal of	of entry and exit data and refusal of	
entry data of third country nationals	entry data of third country nationals	entry data of third country nationals	
crossing the external borders of the	crossing the external borders of the	crossing the external borders of the	
Member States of the Union for a	Member States of the Union for a	Member States of the Union for a	
short stay [or for a stay on the basis	short stay [or for a stay on the basis	short stay [].	
of a touring visa].	of a touring visa].		



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

	(2) I I ( 1 I /		
(3) In order to carry out checks on	(3) In order to carry out checks on	(3) In order to carry out checks on	
third country nationals pursuant to	third country nationals pursuant to	third country nationals pursuant to	
Regulation (EU) 2016/399, which	Regulation (EU) 2016/399, which	Regulation (EU) 2016/399, which	
include the verification of the	include the verification of the	include the verification of the	
identity and/ or the identification of	identity and/ or the identification of	identity and/ or the identification of	
the third country national as well as	the third country national as well as	the third country national as well as	
the verification that the third country	the verification that the third country	the verification that the third country	
national has not exceeded the	national has not exceeded the	national has not exceeded the	
maximum duration of authorised stay	maximum duration of authorised stay	maximum duration of authorised stay	
in the territory of the Member States,	in the territory of the Member States,	in the territory of the Member States,	
border guards should use all the	border guards should use all the	border guards should use all the	
information available, including data	information available, including data	information available, including data	
from the EES. The data stored in that	from the EES. The data stored in that	from the EES, where required. The	
system should also be used to verify	system should also be used to verify	data stored in that system should also	
that third country nationals holding a	that third country nationals holding a	be used to verify that third country	
single or double entry visa have	single or double entry visa have	nationals holding a single or double	
respected the maximum number of	respected the maximum number of	entry visa have respected the	
authorised entries.	authorised entries.	maximum number of authorised	
		entries.	
		(3a) In certain cases biometric data	
		need to be provided by the third	
		country national for the purpose of	
		border checks. The entry conditions	
		for third country nationals should	
		therefore be amended by the	
		obligation to provide that biometric	
		data. If a third country national	
		refuses to provide biometric data for	
		the creation of the individual file or	
		for the performance of border check,	
		a refusal of entry decisions should be	
		adopted.	



(4) To ensure full effectiveness of	(4) To ensure full effectiveness of	(4) To ensure full effectiveness of	
the EES, entry and exit checks need	the EES, entry and exit checks need	the EES, entry and exit checks need	
to be carried out in a harmonised way	to be carried out in a harmonised way	to be carried out in a harmonised way	
at the external borders.	at the external borders.	at the [] borders at which the EES	
		is operated.	
(5) The establishment of an EES	(5) The establishment of an EES	(5) The establishment of an EES	
requires adapting the procedures for	requires adapting the procedures for	requires adapting the procedures for	
checking persons when crossing the	checking persons when crossing the	checking persons when crossing the	
external borders laid down in	external borders laid down in	[] borders at which the EES is	
Regulation (EU) 2016/399. In	Regulation (EU) 2016/399. In	operated. []. In particular, the EES	
particular, the EES aims to abolish	particular, the EES aims to abolish	aims to abolish on entry and exit the	
on entry and exit the stamping of the	on entry and exit the stamping of the	stamping of the travel documents of	
travel documents of third country	travel documents of third country	third country nationals admitted for a	
nationals admitted for a stay [or for a	nationals admitted for a stay [or for a	short stay [] by replacing it by the	
stay on the basis of a touring visa] by	stay on the basis of a touring visa] by	electronic recording of the entry and	
replacing it by the electronic	replacing it by the electronic	exit directly in the EES. However,	
recording of the entry and exit	recording of the entry and exit	stamping of travel document on	
directly in the EES. However,	directly in the EES. However,	refusal of entry of a third country	
stamping of travel document on	stamping of travel document on	national is maintained since it	
refusal of entry of a third country	refusal of entry of a third country	concerns higher risk travellers.	
national is maintained since it	national is maintained since it	Furthermore, the establishment of the	
concerns higher risk travellers.	concerns higher risk travellers.	interoperability between the EES and	
Furthermore, the establishment of the	Furthermore, the establishment of the	the Visa Information System (VIS)	
interoperability between the EES and	interoperability between the EES and	needs to be taken into account in the	
the Visa Information System (VIS)	the Visa Information System (VIS)	border checks procedures. Lastly, the	
needs to be taken into account in the	needs to be taken into account in the	EES opens the possibility to use new	
border checks procedures. Lastly, the	border checks procedures. Lastly, the	technologies for the border crossings	
EES opens the possibility to use new	EES opens the possibility to use new	of short stay travellers.	
technologies for the border crossings	technologies for the border crossings		
of short stay travellers.	of short stay travellers.		



(5a) The above-mentioned
adaptations of procedures should
become effective in the Member
States operating the EES on the date
of entry into operation of the EES
determined in accordance with the
EES Regulation (EU) N° XXX.
(5b) By derogation to those
adaptations, during the transitional
period pending their connection to
the EES, Member State not operating
the EES should continue to apply the
procedures laid down in Regulation
(EU) 2016/399 as they stand before
the entry into force of this
Regulation. Those procedures should
include the maintenance of the
stamping obligation and the existing
procedures for check on borders.
which do not include verification of
the EES. For the reasons of
transparency and legal certainty,
those procedures should be set out in
an Annex which should be added for
this purpose to Regulation (EU)
<u>2016/399.</u>



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(6) During a period of six months	(6) During a period of six months	(6) During a period of six months	
after the EES has started operations,	after the EES has started operations.	after the EES has started operations,	
border guards should take into	border guards should take into	border guards should take into	
account the stays in the territories of	account the stays in the territories of	account the stays in the territories of	
the Member States during the six	the Member States during the six	the Member States during the six	
months preceding the entry or the	months preceding the entry or/the	months preceding the entry or the	
exit by checking the stamps in the	exit by checking the stamps in the	exit by checking the stamps in the	
travel documents in addition to the	travel documents in addition to the	travel documents in addition to the	
entry/exit data recorded in the EES.	entry/exit data recorded in the EES.	entry/exit data recorded in the EES.	
Such measure should enable the	Such measure should enable the	Such measure should enable the	
required verifications to be carried	required verifications to be carried	required verifications to be carried	
out in those cases where a person	out in those cases where a person	out in those cases where a person	
would have been admitted for a short	would have been admitted for a short	would have been admitted for a short	
stay on the territory of the Member	stay on the territory of the Member	stay on the territory of the Member	
States in the six months preceding	States in the six months preceding	States in the six months preceding	
the start of operations of the EES. In	the start of operations of the EES. In	the start of operations of the EES. In	
addition there is a need to lay down	addition there is a need to lay down	addition there is a need to lay down	
specific provisions for those persons	specific provisions for those persons	specific provisions for those persons	
having entered the territory of the	having entered the territory of the	having entered the territory of the	
Member States and who have not yet	Member/States and who have not yet	Member States and who have not yet	
exited it before the entry into	exited it before the entry into	exited it before the entry into	
operations of the system. In these	operations of the system. In these	operations of the system. In these	
situations, the last entry should also	situations, the last entry should also	situations, the last entry should also	
be recorded into the EES when	be/recorded into the EES when	be recorded into the EES when	
exiting the territory of the Member	exiting the territory of the Member	exiting the territory of the Member	
States.	/States.	States.	
(7) Taking into account the	(7) Taking into account the	(7) Taking into account the	
different situations in the Member	different situations in the Member	different situations in the Member	
States and at different border	States and at different border	States and at different border	
crossing points within the Member	crossing points within the Member	crossing points within the Member	
States concerning the number of third	States concerning the number of third	States concerning the number of third	
country nationals crossing the	country nationals crossing the	country nationals crossing the	



borders, Member States should be	borders, Member States should be	borders, Member States should be	
able to decide whether and to what	able to decide whether and to what	able to decide whether and to what	
extent to make use of technologies	extent to make use of technologies	extent to make use of technologies	
such as automated border control	such as automated border control	such as automated border control	
systems, "self-service kiosks" and e-	systems, "self-service kiosks" and e-	systems, "self-service kiosks" and e-	
gates. When using such technologies,	gates. When using such technologies,	gates. When using such technologies,	
it should be ensured that entry and	it should be ensured that entry and	it should be ensured that entry and	
exit checks are carried out in a	exit checks are carried out in a	exit checks are carried out in a	
harmonised way at the external	harmonised way at the external	harmonised way at the external	
borders and that an appropriate level	borders and that an appropriate level	borders and that an appropriate level	
of security is ensured.	of security is ensured.	of security is ensured.	
(8) In addition, the tasks and roles	(8) In addition, the tasks and roles $/$	(8) In addition, the tasks and roles	
of the border guards when making	of the border guards when making /	of the border guards when making	
use of such technologies need to be	use of such technologies need to be	use of such technologies need to be	
defined. In this regard, it should be	defined. In this regard, it should be	defined. In this regard, it should be	
ensured that the results of border	ensured that the results of border	ensured that the results of border	
checks performed through automated	checks performed through automated	checks performed through automated	
means are available to border guards	means are available to border guards	means are available to border guards	
so as to enable them to take the	so as to enable them to take the	so as to enable them to take the	
appropriate decisions. In addition,	appropriate decisions. In addition,	appropriate decisions. In addition,	
there is a need to supervise the use of	there is a need to supervise the use of	there is a need to supervise the use of	
the automated border control	the automated border control	the automated border control	
systems, "self-service kiosks" and e-	systems, "self-service kiosks" and e-	systems, "self-service kiosks" and e-	
gates by travellers so as to prevent	gates by travellers so as to prevent	gates by travellers so as to prevent	
fraudulent behaviour and uses. In	fraudulent behaviour and uses. In	fraudulent behaviour and uses. In	
addition, when carrying out this	addition, when carrying out this	addition, when carrying out this	
supervision, border guards should	supervision, border guards should	supervision, border guards should	
pay particular attention to minors and	pay particular attention to minors and	pay particular attention to minors and	
should be placed in a position that	should be placed in a position that	should be placed in a position that	
should enable them to identify	should enable them to identify	should enable them to identify	
persons needing protection.	persons needing protection.	persons needing protection.	



(9) Member States should also be	(9) Member States should also be	(9) Member States should also be	
able to establish national facilitation	able to establish national facilitation	able to establish national facilitation	
programmes on a voluntary basis to	programmes on a voluntary basis to	programmes on a voluntary basis to	
allow pre-vetted third country	allow pre-vetted third country	allow pre-vetted third country	
nationals to benefit at entry from	nationals to benefit at entry from	nationals to benefit at entry from	
derogations to the thorough checks.	derogations to the thorough checks.	derogations to the thorough checks.	
When using such national facilitation	When using such national facilitation	When using such national facilitation	
programmes, it should be ensured	programmes, it should be ensured	programmes, it should be ensured	
that they are established in a	that they are established in a	that they are established in a	
harmonised way and that the	harmonised way and that the	harmonised way and that the	
appropriate level of security is	appropriate level of security is	appropriate level of security is	
guaranteed.	guaranteed.	guaranteed.	
(10) This Regulation is without	(10) This Regulation is without	(10) This Regulation is without	
prejudice to the application of	prejudice to the application of	prejudice to the application of	
Directive 2004/38/EC of the	Directive 2004/38/EC of the	Directive 2004/38/EC of the	
European Parliament and of the	European Parliament and of the	European Parliament and of the	
Council <sup>3</sup> .	Council <sup>3</sup> .	Council <sup>3</sup> . (10a) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on 21 September 2016.	

<sup>&</sup>lt;sup>3</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJ L 158, 30.4.2004, p. 77).

(11) Since the objective of this	(11) Since the objective of this	(11) Since the objective of this	
Regulation, namely to provide for	Regulation, namely to provide for	Regulation, namely to provide for	
amendments to the existing rules of	amendments to the existing rules of	amendments to the existing rules of	
Regulation (EU) 2016/399 can only	Regulation (EU) 2016/399 can only	Regulation (EU) 2016/399 can only	
be achieved at Union level, the	be achieved at Union level, the	be achieved at Union level, the	
Union may adopt measures in	Union may adopt measures in	Union may adopt measures in	
accordance with the principle of	accordance with the principle of	accordance with the principle of	
subsidiarity as set out in Article 5 of	subsidiarity as set out in Article 5 of	subsidiarity as set out in Article 5 of	
the Treaty on European Union. In	the Treaty on European Union. In	the Treaty on European Union. In	
accordance with the principle of	accordance with the principle of	accordance with the principle of	
proportionality, as also set out in that	proportionality, as also set out in that	proportionality, as also set out in that	
Article, this Regulation does not go	Article, this Regulation does not go	Article, this Regulation does not go	
beyond what is necessary in order to	beyond what is necessary in order to	beyond what is necessary in order to	
achieve this objective.	achieve this objective.	achieve this objective.	
(12) In accordance with Articles 1	(12) In accordance with Articles 1	(12) In accordance with Articles 1	
and 2 of Protocol No 22 on the	and 2 of Protocol No 22 on the	and 2 of Protocol No 22 on the	
position of Denmark, annexed to the	position of Denmark, annexed to the	position of Denmark, annexed to the	
Treaty on European Union and to the	Treaty on European Union and to the	Treaty on European Union and to the	
Treaty on the Functioning of the	Treaty on the Functioning of the	Treaty on the Functioning of the	
European Union, Denmark is not	European Union, Denmark is not	European Union, Denmark is not	
taking part in the adoption of this	taking part in the adoption of this	taking part in the adoption of this	
Regulation and is not bound by it or	Regulation and is not bound by it or	Regulation and is not bound by it or	
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.	



		a	r
(13) This Regulation constitutes a	(13) This Regulation constitutes a	(13) This Regulation constitutes a	
development of the provisions of the	development of the provisions of the	development of the provisions of the	
Schengen <i>acquis</i> in which the United	Schengen acquis in which the United	Schengen <i>acquis</i> in which the United	
Kingdom does not take part, in	Kingdom does not take part, in	Kingdom does not take part, in	
accordance with Council Decision	accordance with Council Decision	accordance with Council Decision	
$2000/365/EC^4$ ; the United Kingdom	2000/365/EC <sup>4</sup> ; the United Kingdom	$2000/365/EC^4$ ; the United Kingdom	
is therefore not taking part in the	is therefore not taking part in the	is therefore not taking part in the	
adoption of this Regulation and is not	adoption of this Regulation and is not	adoption of this Regulation and is not	
bound by it or subject to its	bound by it or subject to its	bound by it or subject to its	
application.	application.	application.	
(14) This Regulation constitutes a	(14) This Regulation constitutes a	(14) This Regulation constitutes a	
development of the provisions of the	development of the provisions of the	development of the provisions of the	
Schengen acquis in which Ireland	Schengen <i>acquis</i> in which Ireland	Schengen acquis in which Ireland	
does not take part, in accordance	does not take part, in accordance	does not take part, in accordance	
with Council Decision	with Council Decision	with Council Decision	
2002/192/EC <sup>5</sup> ; Ireland is therefore	$2002/192/EC^5$ , Ireland is therefore	2002/192/EC <sup>5</sup> ; 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.	

<sup>&</sup>lt;sup>4</sup> 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).

<sup>&</sup>lt;sup>5</sup> 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).

	•		1
(15) As regards Iceland and	(15) As regards Iceland and	(15) 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 acquis <sup>6</sup>	development of the Schengen acquis <sup>6</sup>	development of the Schengen <i>acquis</i> <sup>6</sup>	
which fall within the area referred to	which fall within the area referred to	which fall within the area referred to	
in Article 1, point A of Council	in Article 1, point A of Council	in Article 1, point A of Council	
Decision 1999/437/EC <sup>7</sup> .	Decision 1999/437/EC <sup>7</sup> .	Decision 1999/437/EC <sup>7</sup> .	
(16) As regards Switzerland, this	(16) As regards Switzerland, this	(16) As regards Switzerland, this	
Regulation constitutes a development	Regulation constitutes a development	Regulation constitutes a development	
of the provisions of the Schengen	of the provisions of the Schengen	of the provisions of the Schengen	
acquis within the meaning of the	acquis within the meaning of the	acquis within the meaning of the	
Agreement between the European	Agreement between the European	Agreement between the European	
Union, the European Community and	Union, the European Community and	Union, the European Community and	
the Swiss Confederation on the Swiss	the Swiss Confederation on the Swiss	the Swiss Confederation on the Swiss	
Confederation's association with the	Confederation's association with the	Confederation's association with the	
implementation, application and	implementation, application and	implementation, application and	
development of the Schengen <i>acquis</i> <sup>8</sup>	development of the Schengen acquis <sup>8</sup>	development of the Schengen <i>acquis</i> <sup>8</sup>	
which fall within the area referred to	which fall within the area referred to	which fall within the area referred to	



<sup>&</sup>lt;sup>6</sup> OJ L 176, 10.7.1999, p. 36.

 <sup>&</sup>lt;sup>7</sup> 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).
 <sup>8</sup> OLL 52, 27.2.2008, p. 52

OJ L 53, 27.2.2008, p. 52.

	1		
in Article 1, point A of Council	in Article 1, point A of Council	in Article 1, point A of Council	
Decision 1999/437/EC <sup>9</sup> read in	Decision 1999/437/EC <sup>9</sup> read in	Decision 1999/437/EC <sup>9</sup> read in	
conjunction with Article 3 of Council	conjunction with Article 3 of Council	conjunction with Article 3 of Council	
Decision 2008/146/EC <sup>10</sup> .	Decision 2008/146/EC <sup>10</sup> .	Decision 2008/146/EC <sup>10</sup> .	
(17) As regards Liechtenstein, this	(17) As regards Liechtenstein, this $/$	(17) As regards Liechtenstein, this	
Regulation constitutes a development	Regulation constitutes a development	Regulation constitutes a development	
of the provisions of the Schengen	of the provisions of the Schengen	of the provisions of the Schengen	
acquis within the meaning of the	acquis within the meaning of the	acquis within the meaning of the	
Protocol between the European	Protocol between the European	Protocol between the European	
Union, the European Community, the	Union, the European Community, the	Union, the European Community, the	
Swiss Confederation and the	Swiss Confederation and the	Swiss Confederation and the	
Principality of Liechtenstein on the	Principality of Liechtenstein on the	Principality of Liechtenstein on the	
accession of the Principality of	accession of the Principality of	accession of the Principality of	
Liechtenstein to the Agreement	Liechtenstein to the Agreement	Liechtenstein to the Agreement	
between the European Union, the	between the European Union, the	between the European Union, the	
European Community and the Swiss	European Community and the Swiss	European Community and the Swiss	
Confederation on the Swiss	Confederation on the Swiss	Confederation on the Swiss	
Confederation's association with the	Confederation's association with the	Confederation's association with the	
implementation, application and	implementation, application and	implementation, application and	
development of the Schengen	development of the Schengen	development of the Schengen	
acquis <sup>11</sup> which fall within the area	$acquis^{11}$ which fall within the area	<i>acquis</i> <sup>11</sup> which fall within the area	

<sup>&</sup>lt;sup>9</sup> 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).

<sup>&</sup>lt;sup>10</sup> 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).

<sup>&</sup>lt;sup>11</sup> OJ L 160, 18.6.2011, p. 21.

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 <sup>12</sup>	Council Decision 1999/437/EC <sup>12</sup>	Council Decision 1999/437/EC <sup>12</sup>	
read in conjunction with Article 3 of	read in conjunction with Article 3 of	read in conjunction with Article 3 of	
Council Decision 2011/350/EU <sup>13</sup> .	Council Decision 2011/350/EU <sup>13</sup>	Council Decision 2011/350/EU <sup>13</sup> .	
		(17a) [As regards Cyprus Bulgaria,	
		Romania and Croatia, provisions of	
		this Regulation referring to VIS	
		constitute provisions building upon,	
		or otherwise relating to, the	
		Schengen <i>acquis</i> within,	
		respectively, the meaning of Article	
		$\overline{3(2)}$ of the 2003 Act of Accession,	
		Article 4(2) of the 2005 Act of	
		Accession and Article $4(2)$ of the	
		2011 Act of Accession.]	
(18) Regulation (EU) 2016/399	(18) Regulation (EU) 2016/399	(18) Regulation (EU) 2016/399	
should therefore be amended	should therefore be amended	should therefore be amended	
accordingly,	accordingly	accordingly,	

<sup>&</sup>lt;sup>12</sup> 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)

<sup>&</sup>lt;sup>13</sup> 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 on 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).

REGULATION:	REGULATION:	
Article 1	Article 1	
Regulation (EU) 2016/399 is	Regulation (EU) 2016/399 is	
amended as follows:	amended as follows:	
(1) In Article 2, the following	(1) In Article 2, the following	<b>Provisionally agreed</b> :
points 22, 23, 24, and 25 and 25a are	points 22, 23, 24 and 25 are added:	(1) In Article 2, the following
added:		points 22, 23, 24, 25 and 25a are
		added:
"22. 'Entry/Exit System (EES)'	"22. 'Entry/Exit System (EES)'	<b>Provisionally agreed</b> :
		22. 'Entry/Exit System (EES)'
•		means the system established by
		[Regulation (EU) XXX of the
1 /	1	European Parliament and of the
<b>ë</b> / <b>.</b>	6 3	Council establishing the Entry/Exit
		System (EES) to register entry and
		exit data and refusal of entry data of
	external borders of the Member	third country nationals crossing the
	States of the European Union and	external borders of the Member
	-	States of the European Union and
to the EES for law enforcement	to the EES for law enforcement	determining the conditions for access
purposes:	purposes:	to the EES for law enforcement
	r · r · · · · · · · · · · · · · · · · ·	purposes;
23. 'Self-service system' means an	23. 'Self-service system' means an	Provisionally agreed:
5	5	23. 'Self-service system' means an
or some of the border checks that are	or some of the border checks that are	automated system which performs all
		or some of the border checks that are
		applicable to a person and which
	· · ·	may be used for pre-enrolling data in
		EES;
	Regulation (EU) 2016/399 is amended as follows: (1) In Article 2, the following points 22, 23, 24, and 25 and 25a are added: "22. 'Entry/Exit System (EES)' means the system established by [Regulation No° XXX of the European Parliament and of the Council establishing the Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the European Union and determining the conditions for access to the EES for law enforcement purposes; 23. 'Self-service system' means an automated system which performs all	REGULATION:REGULATION:Article 1Article 1Regulation (EU) 2016/399 is amended as follows:Regulation (EU) 2016/399 is amended as follows:(1) In Article 2, the following points 22, 23, 24, and 25 and 25a are added:Regulation (EU) 2016/399 is amended as follows:"22. 'Entry/Exit System (EES)' means the system established by [Regulation No° XXX of the European Parliament and of the Council establishing the Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the European Union and determining the conditions for access to the EES for law enforcement purposes;"22. 'Entry/Exit System (EES)' means the system established by [Regulation (EU) No° XXX of the European Parliament and of the Council establishing the Entry/Exit System (EES) to register entry and 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;23. 'Self-service system' means an automated system which performs all or some of the border checks that are



24. 'e-gate' means an infrastructure	24. 'e-gate' means an infrastructure	24. 'e-gate' means an infrastructure	Delegations are encouraged to
operated by electronic means where	operated by electronic means where	operated by electronic means where	accept the following text:
the effective crossing of an external	the effective crossing of an external	the effective crossing of [] a	24. 'e-gate' means an infrastructure
border takes place;	border takes place;	border takes place;	operated by electronic means where
			the effective crossing of an external
			border or of a border where controls
			have not been lifted takes place;
25. 'Automated Border Control	25. 'Automated Border Control	25. 'Automated Border Control	
system' means a system which allows	system' means a system which allows	system' means a system which allows	
for an automated border passage, and	for an automated border passage, and	for an automated border passage, and	
which is composed of a self-service	which is composed of a self-service	which is composed of a self-service	
system and an e-gate."	system and an e-gate."	system and an e-gate.	
	25a. 'confirmation of the		It has been provisionally agreed to
	authenticity and integrity of the chip		have a definition on the authenticity
	data' means the process by which it		and integrity of the chip data,
	is verified, through the use of		however, the EP will come back with
	certificates, that the data on the chip		drafting suggestions. To be aligned
	originates from the issuing		throughout the text.
	authority and that is has not been		0
	changed.		
		(1a) In Article 6 paragraph 1, point	
		(f) is added:	
		"(f) they provide the biometric data,	Presidency to confirm whether this
		if required for:	addition is to be put under article 6
			or else under article 14.
		(i) <u>creating the individual file in</u>	
		the Entry/Exit system in accordance	
		with Articles 14 and 15 of	
		[Regulation establishing the	
		Entry/Exit System (EES)];	



	and (g)(i) of this Regulation, Article	
	21(2) and (4) of [Regulation	
	establishing the Entry/Exit System	
	(EES)] and, where applicable, Article	
	18 of Regulation (EC) No 767/2008.	
(2) The following Article 6a is	(2) The following Article 6a is	
inserted:	inserted:	
"Article 6a	"Article 6a	Provisionally agreed:
Third country nationals for which	Third country nationals for []	Article 6a
data shall be entered into the EES	whom data shall be entered into the	Third country nationals for <u>whom</u>
	EES	data shall be entered into the EES
1. Data on entry and exit of the	1. Data on entry and exit of the	
following categories of persons shall	following categories of persons shall	
be entered into the EES in	be entered into the EES in	
accordance with Articles 14, 15, 17	accordance with Articles 14, 15, 17	
and 18 of [Regulation establishing	and 18 of [Regulation establishing	
	the Entry/Exit System (EES)]:	
(a) third country nationals	(a) third country nationals	
admitted for a short stay pursuant to	admitted for a short stay pursuant to	
	of a touring visa];	
(b) third country nationals who are	(b) third country nationals who are	
members of the family of a Union	members of the family of a Union	
citizen to whom Directive	citizen to whom Directive	
2004/38/EC applies and who do not	2004/38/EC applies and who do not	
Directive;	Directive;	
	<ul> <li>inserted:</li> <li>"Article 6a</li> <li>Third country nationals for which data shall be entered into the EES</li> <li>1. Data on entry and exit of the following categories of persons shall be entered into the EES in accordance with Articles 14, 15, 17 and 18 of [Regulation establishing the Entry/Exit System (EES)]: <ul> <li>(a) third country nationals admitted for a short stay pursuant to Article 6(1) [or for a stay on the basis of a touring visa];</li> <li>(b) third country nationals who are members of the family of a Union citizen to whom Directive 2004/38/EC applies and who do not hold a residence card pursuant to that</li> </ul> </li> </ul>	accordance with Article 8(3)(a)(i) and (g)(i) of this Regulation, Article 21(2) and (4) of [Regulation establishing the Entry/Exit System (EES)] and, where applicable, Article 18 of Regulation (EC) No 767/2008.(2) The following Article 6a is inserted:(2) The following Article 6a is inserted:"Article 6a Third country nationals for which data shall be entered into the EES(2) The following Article 6a Third country nationals for which data shall be entered into the EES1. Data on entry and exit of the following categories of persons shall be entered into the EES in accordance with Articles 14, 15, 17 and 18 of [Regulation establishing the Entry/Exit System (EES)]:1. Data on entry and exit of the following categories of persons shall be entered into the EES in accordance with Articles 14, 15, 17 and 18 of [Regulation establishing the Entry/Exit System (EES)]:1. Data on entry and exit of the following categories of persons shall be entered into the EES in accordance with Articles 14, 15, 17 and 18 of [Regulation establishing the Entry/Exit System (EES)]:(a) third country nationals admitted for a short stay pursuant to Article 6(1) [or for a stay on the basis of a touring visa];(a) third country nationals admitted for a short stay pursuant to Article 6(1) [or for a stay on the basis of a touring visa];(b) third country nationals who are members of the family of a Union citizen to whom Directive 2004/38/EC applies and who do not hold a residence card pursuant to that

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



<ul> <li>(a) third country nationals who are members of the family of a Union citizen to whom Directive 2004/38/EC applies and who hold a residence card in accordance with that Directive;</li> <li>(b) third country nationals who are members of the family of nationals of third countries enjoying the right of free movement under Union law who hold a residence card referred to in Directive 2004/38/EC;</li> </ul>	<ul> <li>(a) third country nationals who are members of the family of a Union citizen to whom Directive 2004/38/EC applies and who hold a residence card in accordance with that Directive;</li> <li>(b) third country nationals who are members of the family of nationals of third countries enjoying the right of free movement under Union law who hold a residence card referred to in Directive 2004/38/EC;</li> </ul>	<ul> <li>(a) third country nationals who are members of the family of a Union citizen to whom Directive 2004/38/EC applies and who hold a residence card in accordance with that Directive;</li> <li>(b) third country nationals who are members of the family of nationals of third countries enjoying the right of free movement under Union law or 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 document pursuant to the agreement as applicable.</li> </ul>	COM drafting suggestion aligned with ETIAS (c) third country nationals who are members of the family of a nationals of a third country <del>ies</del> enjoying the right of free movement <del>under Union</del> law 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 referred to under Directive 2004/38/EC or a residence permit pursuant to Regulation (EC) No
			1030/2002.
		(b1) holders of residence permits referred to in point 16 of Article 2 other than those covered by points (a) and (b) of this paragraph;	Provisionally agreed: b1) holders of residence permits referred to in point 16 of Article 2 other than those covered by points (a) and (b) of this paragraph;
		(b2) holders of long-stay visas;	Provisionally agreed: b2) holders of long-stay visas;



(c) nationals of Andorra, Monaco and San Marino;	(c) nationals of Andorra, Monaeo and San Marino;	<ul> <li>(b3) third country nationals</li> <li>exercising mobility in accordance</li> <li>with Directive 2014/66/EU<sup>13a</sup> or</li> <li>Directive (EU) 2016/801<sup>13b</sup> as those</li> <li>Directives set up specific intra-EU</li> <li>mobility schemes;</li> <li>(c) nationals of Andorra, Monaco, and San Marino and holders of a</li> </ul>	Provisionally agreed:(b3)third country nationalsexercising mobility in accordancewith Directive 2014/66/EU <sup>13a</sup> orDirective (EU) 2016/801 <sup>13b</sup> as thoseDirectives set up specific intra-EUmobility schemes;Provisionally agreed:(c)nationals of Andorra, Monaco,		
		passport issued by the Vatican City State;	and San Marino <u>and holders of a</u> <u>passport issued by the Vatican City</u> <u>State</u> ;		
(d) persons or categories of persons exempt from border checks or benefitting from facilitation of border crossing:	(d) persons or categories of persons exempt from border checks or benefitting from facilitation of border crossing:	(d) persons or categories of persons exempt from border checks or benefitting from facilitation of border crossing:			
(i) heads of State and members of their delegation in accordance with point 1 of Annex VII;	(i) <i>Heads</i> of State, <i>heads of</i> <i>government</i> and <i>the</i> members of their <i>delegations</i> in accordance with point 1 of Annex VII;	<ul> <li>(i) heads of State, heads of government and members of national government with accompanying spouses, sovereigns and other senior members of a royal family and members of their delegation in accordance with point 1 of Annex VII;</li> </ul>	<i>Commission to propose drafting suggestion (also for Annex VII).</i>		
<sup>13a</sup> Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country					
<ul> <li>nationals in the framework of an intra-corporate transfer, OJ L 157, 27.5.2014, p. 1.</li> <li>Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third- country nationals for the purpose of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au paring</li> </ul>					

(recast), OJ L 132, 21.5.2016, p. 21.



(ii) pilots of aircraft and other crew	(ii) pilots of aircraft and other crew	(ii) pilots of aircraft and other crew	
members in accordance with point 2	members in accordance with point 2	members in accordance with point 2	
of Annex VII;	of Annex VII;	of Annex VII;	
(iii) seamen in accordance with	(iii) seamen in accordance with	(iii) seamen in accordance with	Delegations are encouraged to delete
point 3 of Annex VII;	point 3 of Annex VII;	point 3 of Annex VII and seamen	the Council addition in order to
		who are present within the territory	ensure consistency with Annex VII,
		of a Member State only when their	point 3:
		ship puts in and in the area of the	iii) seamen in accordance with
		port of call;	point 3 of Annex VI
(iv) cross-border workers in	(iv) cross-border workers in	(iv) cross-border workers in	
accordance with point 5 of Annex	accordance with point 5 of Annex	accordance with point 5 of Annex	
VII;	VII;	VII;	
(v) rescue services, police, fire	(v) rescue services, police, fire	(v) rescue services, police, fire	
brigades acting in emergency	brigades acting in emergency	brigades acting in emergency	
situation and border guards in	situation and border guards in	situation and border guards in	
accordance with point 7 of Annex	accordance with point 7 of Annex	accordance with point 7 of Annex	
VII;	YH;	VII;	
(vi) offshore workers in accordance	(vi) offshore workers in accordance	(vi) offshore workers in accordance	
with point 8 of Annex VII;	with point 8 of Annex VII;	with point 8 of Annex VII;	
(vii) crew members and passengers	(vii) crew members and passengers	(vii) crew members and passengers	
of cruise ships in accordance with	of cruise ships in accordance with	of cruise ships in accordance with	
points 3.2.1, 3.2.2 and 3.2.3 of	points 3.2.1, 3.2.2 and 3.2.3 of	points 3.2.1, 3.2.2 and 3.2.3 of	
Annex VI;	Annex VI;	Annex VI;	
(viii) persons on board a pleasure	(viii) persons on board a pleasure	(viii) persons on board a pleasure	
boat who are not subject to border	boat who are not subject to border	boat who are not subject to border	
checks in accordance with points	checks in accordance with points	checks in accordance with points	
3.2.4, 3.2.5 and 3.2.6 of Annex VI;	3.2.4, 3.2.5 and 3.2.6 of Annex VI;	3.2.4, 3.2.5 and 3.2.6 of Annex VI;	
(e) persons who are exempt from	(e) persons who are exempt from	(e) persons who are exempt from	
the obligation to cross external	the obligation to cross external	the obligation to cross external	
borders only at border crossing	borders only at border crossing	borders only at border crossing	
points and during the fixed opening	points and during the fixed opening	points and during the fixed opening	
hours pursuant to Article $5(2)$ ;	hours pursuant to Article 5(2);	hours pursuant to Article 5(2);	



(f) persons who present a valid local border traffic permit for their	(f) persons who present a valid local border traffic permit for their	(f) persons who present a valid local border traffic permit for their	<i>Provisionally agreed:</i> f) persons who present a valid
border crossing in accordance with	border crossing in accordance with	border crossing in accordance with	local border traffic permit for their
Regulation (EC) No 1931/2006 of	Regulation (EC) No 1931/2006 of	Regulation (EC) No 1931/2006 of	border crossing in accordance with
the European Parliament and of the	the European Parliament and of the	the European Parliament and of the	Regulation (EC) No 1931/2006 of
Council.	Council.	Council;	the European Parliament and of the
	Countent	country.	Council;
		(g) crews of passenger and goods	Provisionally agreed
		trains on international connections;	(g) crews of passenger and goods
			trains on international connections;
		(h) persons who present for their	Provisionally agreed
		border crossing	(h) persons who present for their
			border crossing
		(i) <u>a valid Facilitated Rail Transit</u>	Provisionally agreed
		Document issued in accordance with	(i) a valid Facilitated Rail Transit
		Regulation (EC) No 693/2003 or	Document issued in accordance with
			Regulation (EC) No 693/2003 or
		(ii) a valid Facilitated Transit	Provisionally agreed
		Document issued in accordance with	(ii) a valid Facilitated Transit
		Regulation (EC) No 693/2003	Document issued in accordance with
		provided that they perform their	Regulation (EC) No 693/2003
		transit by train and they do not	provided that they perform their
		disembark in the territory of a	transit by train and they do not
		Member State.	disembark in the territory of a
			Member State.
The data of the family members	The data of the family members	The data of the family members	
referred to in points (a) and (b) shall	referred to in points (a) and (b) shall	referred to in points (a) and (b) shall	
not be entered into the EES, even if	not be entered into the EES, even if	not be entered into the EES, even if	
they are not accompanying or joining	they are not accompanying or joining	they are not accompanying or joining	
the Union citizen or a third country	the Union citizen or a third country	the Union citizen or a third country	
national enjoying the right of free	national enjoying the right of free	national enjoying the right of free	
movement."	movement."	movement."	



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



2(a)(1)	the SIS;				
2(a)(2)	Interpol's Stolen and Lost Travel Documents (SLTD) database;				
2(a)(3)	national databases containing information on stolen, misappropriated, lost and invalidated travel documents.				
		in paragraph 2, first subparagraph, the following sentence is added:	in paragraph 2, first subparagraph, the following sentence is added:	in paragraph 2, first subparagraph, the following sentence is added:	
	For passports and travel documents containing a storage medium as referred to in Article 1(2) of Council Regulation (EC) No 2252/2004, the authenticity of the chip data shall be checked	If the travel document contains an electronic storage medium (chip), the authenticity of the chip data shall be confirmed using the complete valid certificate chain, unless this is impossible, for technical reasons or, in the case of a travel document issued by a third country, due to the non-availability of valid certificates	If For persons whose border crossing is subject to a registration in the EES, if the travel document contains an electronic storage medium (chip), the authenticity of the chip data shall be confirmed using the complete valid certificate chain, unless this is impossible, for technical reasons or, in the case of a travel document issued by a third country, due to the non-availability of valid certificates	If the travel document contains an electronic storage medium (chip), the authenticity <u>and integrity</u> of the chip data shall be confirmed using the complete valid certificate chain, unless this is impossible, for technical reasons or, in the case of a travel document issued by a third country, due to the non-availability of valid certificates	

2(b)	verification that a person		
2(0)	enjoying the right of free		
	movement under Union law is		
	not considered to be a threat		
	to the public policy, internal		
	security, public health or		
	international relations of any		
	of the Member States,		
	including by consulting the		
	SIS and other relevant Union		
	databases. This is without		
	prejudice to the consultation		
	of national and Interpol		
	databases		
	Where there are doubts as to		
	the authenticity of the travel		
	document or the identity of its		
	holder, at least one of the		
	biometric identifiers		
	integrated into the passports		
	and travel documents issued		
	in accordance with Regulation		
	(EC) No $2252/2004$ shall be		
	verified. Where possible, such		
	verification shall also be		
	carried out in relation to travel		
	documents not covered by		
2	that Regulation.		
2a.	Where the checks against the		
	databases referred to in points		
	(a) and (b) of paragraph 2		
	would have a disproportionate		
	impact on the flow of traffic,		
	a Member State may decide to		
	carry out those checks on a		



targeted basis at specified		
border crossing points,		
following an assessment of		
the risks related to the public		
policy, internal security,		
public health or international		
relations of any of the		
Member States.		
The scope and duration of the		
temporary reduction to		
targeted checks against the		
databases shall not exceed		
what is strictly necessary and		
shall be defined in accordance		
with a risk assessment carried		
out by the Member State		
concerned. The risk		
assessment shall state the		
reasons for the temporary		
reduction to targeted checks		
against the databases, take		
into account, inter alia, the		
disproportionate impact on		
the flow of traffic and provide		
statistics on passengers and		
incidents related to cross-		
border crime. It shall be		
updated regularly.		
Persons who, in principle, are		
not subject to targeted checks		
against the databases, shall, as		
a minimum, be subject to a		
check with a view to		
establishing their identity on		
the basis of the production or		



	presentation of travel		
	documents. Such a check		
	shall consist of a rapid and		
	straightforward verification of		
	the validity of the travel		
	document for crossing the		
	border, and of the presence of		
	signs of falsification or		
	counterfeiting, where		
	appropriate by using technical		
	devices, and, in cases where		
	there are doubts about the		
	travel document or where		
	there are indications that such		
	a person could represent a		
	threat to the public policy,		
	internal security, public health		
	or international relations of		
	the Member States, the border		
	guard shall consult the		
	databases referred to in points		
	(a) and (b) of paragraph 2.		
2b.	The Member State concerned		
	shall transmit its risk		
	assessment and updates		
	thereto to the European		
	Border and Coast Guard		
	Agency ('the Agency'),		
	established by Regulation		
	(EU) 2016/1624 of the		
	European Parliament and of		
	the Council, without delay		
	and shall report every six		
	months to the Commission		
	and to the Agency on the		



	application of the checks		
	against the databases carried		
	out on a targeted basis. The		
	Member State concerned may		
	decide to classify the risk		
	assessment or parts thereof.		
	Where a Member State		
	intends to carry out targeted		
	checks against the databases		
	pursuant to paragraph 2a, it		
	shall notify the other Member		
	States, the Agency and the		
	Commission accordingly		
	without delay. The Member		
	State concerned may decide		
	to classify the notification or		
	parts thereof.		
	Where the Member States, the		
	Agency or the Commission		
	have concerns about the		
	intention to carry out targeted		
	checks against the databases,		
	they shall notify the Member		
	State in question of those		
	concerns without delay. The		
	Member State in question		
	shall take those concerns into		
	account.		
2c.	The Commission shall, by 8		
	April 2019, transmit to the		
	European Parliament and the		
	Council an evaluation of the		
	implementation and		
	consequences of paragraph 2.		



2d.	With regard to air borders,		
20.	paragraphs 2a and 2b shall		
	apply for a maximum		
	transitional period of six		
	months from 7 April 2017.		
	In exceptional cases, where,		
	at a particular airport, there		
	are specific infrastructural		
	difficulties requiring a longer		
	period of time for adaptations		
	in order to allow for the		
	carrying-out of systematic		
	checks against the databases		
	without having a		
	disproportionate impact on		
	the flow of traffic, the six-		
	month transitional period		
	referred to in the first		
	subparagraph may be		
	prolonged for that particular		
	airport by a maximum of 18		
	months in accordance with		
	the procedure specified in the		
	third subparagraph.		 
	For that purpose, the Member		
	State shall, at the latest three		
	months before the expiry of		
	the transitional period referred		
	to in the first subparagraph,		
	notify the Commission, the		
	Agency and the other		
	Member States of the specific		
	infrastructural difficulties in		
	the airport concerned, the		
	envisaged measures to		



	remedy them and the required		
	period of time for their		
	implementation.		
	Where specific infrastructural		
	difficulties requiring a longer		
	period for adaptations exist,		
	the Commission, within one		
	month of receipt of the		
	notification referred to in the		
	third subparagraph and after		
	consulting the Agency, shall		
	authorise the Member State		
	concerned to prolong the		
	transitional period for the		
	airport concerned and, where		
	relevant, shall set the length		
	of such prolongation.		
2e.	The checks against the		
20.	databases referred to in points		
	(a) and (b) of paragraph 2		
	may be carried out in advance		
	on the basis of passenger data		
	received in accordance with		
	Council Directive		
	2004/82/EC or in accordance		
	with other Union or national		
	law. Where those checks are		
	carried out in advance on the		
	basis of such passenger data,		
	the data received in advance		
	shall be checked at the border		
	crossing point against the data		
	in the travel document. The		
	identity and the nationality of		



			1		
	the person concerned, as well				
	as the authenticity and the				
	validity of the travel				
	document for crossing the				
	border, shall also be verified.				
2f.	By way of derogation from				
	paragraph 2, persons enjoying				
	the right of free movement				
	under Union law who cross				
	the internal land borders of				
	the Member States for which				
	the verification in accordance				
	with the applicable Schengen				
	evaluation procedures has				
	already been successfully				
	completed, but for which the				
	decision on the lifting of				
	controls on their internal				
	borders pursuant to the				
	relevant provisions of the				
	relevant Acts of Accession				
	has not yet been taken, may				
	be subject to the checks on				
	exit referred to in paragraph 2				
	only on a non-systematic				
	basis, based on a risk				
	assessment.				
		points (a)(i), (a)(ii) and	points <del>(a)(i), (a)(ii) and</del>	points (a)(i), (a)(ii) and	
		(a)(iii) are replaced by the	(a)(iii) are is replaced by the	(a)(iii) are replaced by the	
		following	following:	following	



3.	On entry and exit, third- country nationals shall be subject to thorough checks as follows:				
3(a)	thorough checks on entry shall comprise verification of the conditions governing entry laid down in Article 6(1) and, where applicable, of documents authorising residence and the pursuit of a professional activity. This shall include a detailed examination covering the following aspects:				
3(a)(i)	verification of the identity and the nationality of the third- country national and of the authenticity and validity of the travel document for crossing the border, including by consulting the relevant databases, in particular:	verification of the identity and the nationality of the third country national and the validity and authenticity of the travel document, by consulting the relevant databases, in particular:	(i) verification of the identity and the nationality of the third country national and the validity and authenticity of the travel document, by consulting the relevant databases, in particular:	(i) verification of the identity and the nationality of the third country national and the validity and authenticity of the travel document, by consulting the relevant databases, in particular	
3(a)(i)(1)	the SIS;	the Schengen information system;	(1) the Schengen information system;	the Schengen information system;	
3(a)(i)(2)	Interpol's SLTD database;	the Interpol database on stolen and lost travel documents;	(2) the Interpol database on stolen and lost travel documents;	the Interpol database on stolen and lost travel documents;	
3(a)(i)(3)	national databases containing information on stolen, misappropriated, lost and invalidated travel documents	national databases containing information on stolen, misappropriated, lost and invalidated travel documents.	(3) national databases containing information on stolen, misappropriated, lost and invalidated travel documents.	national databases containing information on stolen, misappropriated, lost and invalidated travel documents.	



For passports and travel	This verification includes a	This verification includes a	This verification includes a	
documents containing a	thorough scrutiny of the	thorough scrutiny of the	thorough scrutiny of the	
storage medium, the	travel document for signs of	travel document for signs of	travel document for signs of	
authenticity of the chip data	falsification and	falsification and	falsification and	
shall be checked, subject to	counterfeiting.	counterfeiting.	counterfeiting.	
the availability of valid	Except for third country	Except for third country	[] If the travel document	
certificates;	nationals whose entry is	nationals whose entry is	contains a facial image	
certificates,	5	subject to a registration in	recorded in the electronic	
	subject to a registration in	the EES. if the travel		
	the EES, if the travel		storage medium (chip) and	
	document contains a facial	document contains a facial	if the facial image recorded	
	image recorded in the	image recorded in the	in the chip can be []	
	electronic storage medium	electronic storage medium	technically accessed, this	
	(chip) and if the facial	(chip) and if the facial	verification shall include	
	image recorded in the chip	image recorded in the chip	the verification of the facial	
	can be legally and	can be legally and	image recorded in the chip,	
	technically accessed, this	technically accessed, this	by comparing electronically	
	verification shall include the	verification shall include the	this image with the live	
	verification of the facial	verification of the facial	facial image of the	
	image recorded in the chip,	image recorded in the chip,	concerned third country	
	by comparing electronically	by comparing electronically	national, except for third	
	this image with the live	this image with the live	country nationals who have	
	facial image of the	facial image of the	an individual file already	
	concerned third country	concerned third country	registered in the EES. If	
	national.	national.	technically and legally	
			possible, this verification	
			may be done by verifying	
			the live fingerprints with	
			the fingerprints recorded in	
			the chip.	

3(a)(ii)	verification that the travel	verification that the travel	verification that the travel	verification that the travel	
	document is accompanied,	document is accompanied,	document is accompanied,	document is accompanied,	
	where applicable, by the	where applicable, by the	where applicable, by the	where applicable, by the	
	requisite visa or residence	requisite visa or residence	requisite visa or residence	requisite visa, [touring	
	permit;	permit.	permit.	visa], long-stay visa or	
		If the residence permit	If the residence permit	residence permit.	
		contains an electronic	contains an electronic	If the residence permit	
		storage medium (chip) the	storage medium (chip) the	contains an electronic	
		authenticity of the chip data	authenticity of the chip data	storage medium (chip) the	
		shall be confirmed using the	shall be confirmed using the	authenticity and integrity of	
		complete valid certificate	complete valid certificate	the chip data shall be	
		chain, unless this is	chain, unless this is	confirmed using the	
		impossible, for technical	impossible, for technical	complete valid certificate	
		reasons.	reasons. The thorough	chain, unless this is	
		The thorough checks on	checks on entry shall also	impossible, for technical	
		entry shall also comprise a	comprise a systematic	reasons. The thorough	
		systematic verification of	verification of the validity	checks on entry shall also	
		the validity of the residence	of the residence permit or	comprise a systematic	
		permit or long stay visa by	long stay visa by consulting,	verification of the validity	
		consulting, in the SIS and in	in the SIS and in other	of the residence permit or	
		other relevant databases,	relevant databases,	long stay visa by	
		information exclusively on	information exclusively on	consulting, in the SIS and	
		stolen, misappropriated, lost	stolen, misappropriated, lost	in other relevant databases,	
		and invalidated documents	and invalidated	information exclusively on	
			documents.[ <sup>14</sup> ]	stolen, misappropriated,	
				lost and invalidated	
				documents.	





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



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



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

9468/17		GK/cr	39
ANNEX	DG D 1 A	LIMITE	EN

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



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



			1
database on stolen and lost	database on stolen and lost	Schengen Information	
travel documents; and	travel documents; and	System; the Interpol	
national databases	national databases	database on stolen and lost	
containing information on	containing information on	travel documents; and	
stolen, misappropriated, lost	stolen, misappropriated, lost	national databases	
and invalidated travel	and invalidated travel	containing information on	
documents.	documents.[ <sup>16</sup> ]	stolen, misappropriated,	
Except for third country	Except for third country	lost and invalidated travel	
nationals whose exit is	nationals whose exit is	documents.[ <sup>16</sup> ]	
subject to a registration in	subject to a registration in	[] If the travel document	
the EES, if the travel	the EES, if the travel	contains a facial image	
document contains a facial	document contains a facial	recorded in the electronic	
image recorded in the	image recorded in the	storage medium (chip) and	
electronic storage medium	electronic storage medium	if the facial image recorded	
(chip) and if the facial	(chip) and if the facial	in the chip can be []	
image recorded in the chip	image recorded in the chip	technically accessed, this	
can be legally and	can be legally and	verification shall include	
technically accessed, this	technically accessed, this	the verification of the facial	
verification shall include the	verification shall include the	image recorded in the chip,	
verification of the facial	verification of the facial	by comparing electronically	
image recorded in the chip,	image recorded in the chip,	this image with the live	
by comparing electronically	by comparing electronically	facial image of the	
this image with the live	this image with the live	concerned third country	
facial image of the	facial image of the	national, except for third	
concerned third country	concerned third country	country nationals who have	
national	national	an individual file already	
		registered in the EES. If	
		technically and legally	
		possible, this verification	
		may be done by verifying	
		the live fingerprints with	
		the fingerprints recorded	
		the in the chip.	



3(g)(i)(1)	the SIS;				
3(g)(i)(2)	Interpol's SLTD database;				
3(g)(i)(3)	national databases containing				
	information on stolen,				
	misappropriated, lost and				
	invalidated travel documents.				
	For passports and travel				
	documents containing a				
	storage medium, the				
	authenticity of the chip data				
	shall be checked, subject to				
	the availability of valid				
	certificates;				
3(g)(ii)	verification that the third-				
	country national concerned is				
	not considered to be a threat				
	to the public policy, internal				
	security, public health or				
	international relations of any				
	of the Member States,				
	including by consulting the				
	SIS and other relevant Union				
	databases. This is without				
	prejudice to the consultation				
	of national and Interpol				
	databases;				
		the following points (g) (iv)	the following points (g) (iv)	the following points (g) (iv)	
		and (v) are added:	and (v) are added:	and (v) are added:	



3(g)(iv)	(iv)for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person and, where applicable in accordance with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)], an identification shall be carried out	for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person and, where applicable in accordance with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)], an identification shall be carried out;	for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person <u>in accordance</u> with Article 21(2) of [Regulation establishing the Entry/Exit System (EES)] and, where applicable in accordance with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)], an identification shall be carried out;	
3(g)(v)	<ul> <li>(v) for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national did not exceed the maximum duration of authorised stay in the territory of the Member States, by consulting the EES in accordance with Article 21 of [Regulation establishing the Entry/Exit System (EES)]</li> </ul>	for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national did not exceed the maximum duration of authorised stay in the territory of the Member States, by consulting the EES in accordance with Article 21 of [Regulation establishing the Entry/Exit System (EES)]	for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national did not exceed the maximum duration of authorised stay in the territory of the Member States, by consulting the EES in accordance with Article 21(3) of [Regulation establishing the Entry/Exit System (EES)]	



3(h)	in addition to the checks referred to in point (g) thorough checks on exit may also comprise:				
3(h)(i)	verification that the person is in possession of a valid visa, if required pursuant to Regulation (EC) No 539/2001, except where he or she holds a valid residence permit; such verification may comprise consultation of the VIS in accordance with Article 18 of Regulation (EC) No 767/2008;				
3(h)(ii)	verification that the person did not exceed the maximum duration of authorised stay in the territory of the Member States;	DELETED	DELETED	DELETED	
3(i)	for the purpose of identification of any person who may not fulfil, or who may no longer fulfil, the conditions for entry, stay or residence on the territory of the Member States, the VIS may be consulted in accordance with Article 20 of Regulation (EC) No 767/2008;	for the purpose of identification of any person who may not fulfil, or who may no longer fulfil, the conditions for entry, stay or residence on the territory of the Member States, the VIS may be consulted in accordance with Article 20 of Regulation (EC) No 767/2008 and the EES may be consulted in accordance with Article 25 of [Regulation establishing the Entry/Exit System (EES)	for the purpose of identification of any person who may not fulfil, or who may no longer fulfil, the conditions for entry, stay or residence on the territory of the Member States, the VIS may be consulted in accordance with Article 20 of Regulation (EC) No 767/2008 and the EES may be consulted in accordance with Article 25 of [Regulation establishing the Entry/Exit System (EES)]	for the purpose of identification of any person who may not fulfil, or who may no longer fulfil, the conditions for entry, stay or residence on the territory of the Member States, the VIS may be consulted in accordance with Article 20 of Regulation (EC) No 767/2008 and the EES may be consulted in accordance with Article 25 of [Regulation establishing the Entry/Exit System (EES)]	



3(ia)	the checks against the		
	databases referred to in point		
	(a)(i) and (vi) and point (g)		
	may be carried out in advance		
	on the basis of passenger data		
	received in accordance with		
	Directive 2004/82/EC or with		
	other Union or national law.	 	
	Where those checks are		
	carried out in advance on the		
	basis of such passenger data,		
	the data received in advance		
	shall be checked at the border		
	crossing point against the data		
	in the travel document. The		
	identity and the nationality of		
	the person concerned, as well		
	as the authenticity and		
	validity of the travel		
	document for crossing the		
	border, shall also be verified;		
3(ib)	where there are doubts as to		
	the authenticity of the travel		
	document or the identity of		
	the third-country national, the		
	checks, where possible, shall		
	include the verification of at		
	least one of the biometric		
	identifiers integrated into the		
	travel documents.		

4.	Where facilities exist and if		
	requested by the third-country		
	national, such thorough		
	checks shall be carried out in		
	a private area.		
5.	Without prejudice to the		
	second subparagraph, third-		
	country nationals subject to a		
	thorough second line check		
	shall be given written		
	information in a language		
	which they understand or may		
	reasonably be presumed to		
	understand, or in another		
	effective way, on the purpose		
	of, and the procedure for,		
	such a check.		
	This information shall be		
	available in all the official		
	languages of the Union and in		
	the language(s) of the country		
	or countries bordering the		
	Member State concerned and		
	shall indicate that the third-		
	country national may request		
	the name or service		
	identification number of the		
	border guards carrying out the		
	thorough second line check,		
	the name of the border		
	crossing point and the date on		
	which the border was crossed.		



6.	Checks on a person enjoying				
0.	the right of free movement				
	under Union law shall be				
	carried out in accordance with				
	Directive 2004/38/EC.				
7.	Detailed rules governing the				
	information to be registered				
	are laid down in Annex II.				
8.	Where Article $5(2)(a)$ or $(b)$				
	applies, Member States may				
	also provide derogations from				
	the rules set out in this				
	Article.				
		the following paragraph 9 is	the following paragraph 9 is	the following paragraph 9	
		added	added	is added	
		The border guard shall	The border guard shall	[] Any third country	
		inform the third country	inform the third country	national shall have the right	
		national of the maximum	national of the maximum	to ask a border guard during	
		number of days of the	number of days of the	border checks at entry	
		authorised short stay,	authorised short stay,	about the maximum	
		having regard to the results	having regard to the results	remaining number of days	
		of the consultation of the	of the consultation of the	of his/her authorized stay,	
		EES which shall take into	EES which shall take into	which shall take into	
		account, for third country	account, for third country	account [] the number of	
		nationals holding a visa, the	nationals holding a visa, the	entries and the length of	
		number of entries and the	number of entries and the	stay authorised by the visa	
		length of the stay authorised	length of the stay authorised	[] {or the touring visa},	
		by the visa referred to in	by the visa referred to in	and be provided with such	
		Article 6(1)(b)	Article 6(1)(b)	information by the border	
				guard on that occasion.	
				Suma on mai occasion.	

(4) The following Article 8a is inserted:	(4) The following Article 8a is inserted:	(4) The following Article 8a is inserted:	The EP explained that they have deleted Article 8a as they would like to see in the SBC changes only due to the EES. This therefore, means that the EP does not agree that there are new insertions which target EU/ EEA/CH nationals and third country nationals who hold a residence permit because the latter fall outside of the scope of the EES. EP need to further discuss this internally.
"Article 8a	"Article 8a	"Article 8a	
Use of automated border control	Use of automated border control	Use of automated border control	
systems for EU/EEA/CH citizens and	systems for EU/EEA/CH citizens and	systems for EU/EEA/CH citizens and	
for third country nationals who hold	for third country nationals who hold	for third country nationals who hold	
a residence card	<del>a residence card</del>	a residence card	
1. The following categories of	1. The following categories of	1. The following categories of	
persons may be permitted to use	persons may be permitted to use	persons may be permitted to use	
automated border control systems if	automated border control systems if	automated border control systems if	
the conditions listed under paragraph	the conditions listed under paragraph	the conditions listed under paragraph	
2 are met:	2 are met:	2 are met:	
(a) Union citizens within the	(a) Union citizens within the	(a) Union citizens within the	
meaning of Article 20(1) of the	meaning of Article 20(1) of the	meaning of Article 20(1) of the	
Treaty;	Treaty;	<u>TFEU [];</u>	
(b) nationals of third countries	(b) nationals of third countries	(b) nationals of third countries	
who, under agreements between the	who, under agreements between the	who, under agreements between the	
Union and its Member States, on the	Union and its Member States, on the	Union and its Member States, on the	
one hand, and those third countries,	one hand, and those third countries,	one hand, and those third countries,	
on the other hand, enjoy rights of	on the other hand, enjoy rights of	on the other hand, enjoy rights of	
free movement equivalent to those of	free movement equivalent to those of	free movement equivalent to those of	
Union citizens;	Union citizens;	Union citizens;	



(a) third country notionals who are	(c) third country nationals who are	(c) third country nationals who are	
· · · · · · · · · · · · · · · · · · ·	(c) third country nationals who are members of the family of a Union	(c) third country nationals who are members of the family of a Union	
5	citizen to whom Directive	citizen to whom Directive	
	2004/38/EC applies, who hold a	2004/38/EC applies, who hold a	
	residence card referred to in that	residence card referred to in that	
,	Directive;	Directive;	
· · ·	(d) third country nationals who are	(d) third country nationals who are	
5	members of the family of nationals	members of the family of nationals	
	of third countries enjoying the right	of third countries enjoying the right	
	of free movement under Union law	of free movement under Union law	
	who hold a residence card referred to	who hold a residence card referred to	
	in Directive 2004/38/EC.	in Directive 2004/38/EC.	
2. In order to be permitted to use	2. In order to be permitted to use	2. In order to be permitted to use	
automated border control systems,	automated border control systems,	automated border control systems,	
the following cumulative conditions	the following cumulative conditions	the following cumulative conditions	
shall be met:	shall be met:	shall be met:	
(a) the travel document presented	(a) the travel document presented	(a) the travel document [] shall	
for the border crossing shall contain	for the border crossing shall contain	contain an electronic storage medium	
an electronic storage medium (chip)	an electronic storage medium (chip)	(chip) and the authenticity and	
and the authenticity of the chip data	and the authenticity of the chip data	integrity of the chip data shall be	
shall be confirmed using the	shall be confirmed using the	confirmed using the complete valid	
complete valid certificate chain;	complete valid certificate chain;	certificate chain;	
(b) the travel document presented	(b) the travel document presented	(b) the travel document [] shall	
for the border crossing shall contain	for the border crossing shall contain	contain a facial image recorded in the	
a facial image recorded in the chip	a facial image recorded in the chip	chip which can be technically	
0 1	which can be technically accessed by	accessed by the automated border	
5	the automated system so as to verify	<u>control</u> system so as to verify the	
	the identity of the holder of the travel	identity of the holder of the travel	
-	document by comparing the facial	document by comparing the facial	
	image recorded in the chip and the	image recorded in the chip and the	
•	live facial image	live facial image; if technically and	
6	C	legally possible, this verification may	



		1 1 1 10 1 1	
		be done by verifiying the live	
		fingerprints with the fingerprints	
		recorded the in the chip of the travel	
		document;	
(c) in addition, third country	(c) in addition, third country	(c) in addition, third country	
nationals enjoying the right of free	nationals enjoying the right of free	nationals enjoying the right of free	
movement under Union law who	movement under Union law who	movement under Union law who	
hold a valid residence card shall meet	hold a valid residence card shall meet	hold a valid residence card shall meet	
the following conditions:	the following conditions:	the following conditions:	
(i) the residence card presented for	(i) the residence card presented for	(i) the residence card [] shall	
the border crossing shall contain an	the border crossing shall contain an	contain an electronic storage medium	
electronic storage medium (chip) and	electronic storage medium (chip) and	(chip) and the authenticity and	
the authenticity of the chip data shall	the authenticity of the chip data shall	integrity of the chip data shall be	
be confirmed using the complete	be confirmed using the complete	confirmed using the complete valid	
valid certificate chain	valid certificate chain	certificate chain;	
(ii) the residence card presented for	(ii) the residence card presented for	(ii) the residence card [] shall	
the border crossing shall contain a	the border crossing shall contain a	contain a facial image recorded in the	
facial image recorded in the chip	facial image recorded in the chip	chip which can be technically	
which can be technically accessed by	which can be technically accessed by	accessed by the automated border	
the automated system so as to verify	the automated system so as to verify	<u>control</u> system so as to verify the	
the identity of the holder of the	the identity of the holder of the	identity of the holder of the []	
residence permit or residence card,	residence permit or residence card,	residence card, by comparing the	
by comparing the facial image	by comparing the facial image	facial image recorded in the chip and	
recorded in the chip and the live	recorded in the chip and the live	the live facial image; if technically	
facial image.	facial image.	and legally possible, this verification	
	-	may be done by verifiying the live	
		fingerprints with the fingerprints	
		recorded the in the chip of the	
		residence card.	



3. Where the conditions under	3. Where the conditions under	3. Where the conditions under	
paragraph 2 of this Article are met,	paragraph 2 of this Article are met,	paragraph 2 of this Article are met,	
the border checks on entry and exit	the border checks on entry and exit	the border checks on entry and exit	
provided for in Article 8(2) and the	provided for in Article 8(2) and the	provided for in Article 8(2) and the	
border crossing itself may be carried	border crossing itself may be carried	border crossing itself may be carried	
out using an automated border	out using an automated border	out using an automated border	
control system. When carried out by	control system. When carried out by	control system. When carried out by	
means of an automated border	means of an automated border	means of an automated border	
control system, the border check on	control system, the border check on	control system, the border check on	
entry and exit shall systematically	entry and exit shall systematically	entry and exit shall systematically	
include the verification that the	include the verification that the	include the verification that the	
person does not represent a genuine,	person does not represent a genuine,	person does not represent a genuine,	
present and sufficiently serious threat	present and sufficiently serious threat	present and sufficiently serious threat	
to the internal security, public policy,	to the internal security, public policy,	to the internal security, public policy,	
international relations of the Member	international relations of the Member	international relations of the Member	
States or a threat to public health,	States or a threat to public health,	States or a threat to public health,	
including by consulting the relevant	including by consulting the relevant	including by consulting the relevant	
Union and national databases, in	Union and national databases, in	Union and national databases, in	
particular the Schengen Information	particular the Schengen Information	particular the Schengen Information	
System. <sup>14</sup> ]	System.[ <sup>17</sup> ]	System.[ <sup>17</sup> ]	
4. On entry and exit, the results of	4. On entry and exit, the results of	4. On entry and exit, the results of	
the border checks carried out through	the border checks carried out through	the border checks carried out through	
a self-service system shall be made	a self-service system shall be made	a self-service system shall be made	
available to a border guard. Taking	available to a border guard. Taking	available to a border guard. [] <u>T</u> his	
into account the results of the border	into account the results of the border	border guard shall monitor the results	
checks, this border guard shall	checks, this border guard shall	of border checks and, taking into	
authorise the entry or exit or,	authorise the entry or exit or,	account these results, authorise the	
otherwise, refer the person to a	otherwise, refer the person to a	entry or exit or, otherwise, refer the	

<sup>&</sup>lt;sup>14</sup> A similar conditions is foreseen in the proposal (COM(2015)670/2) amending Article 7 of the SBC (further to the codification, current Article 8) and will be part of the compulsory checks for persons enjoying the right of free movement. Depending on the final version of the text adopted, this sentence may become redundant/obsolete.



border guard who shall proceed with	border guard who shall proceed with	person to a border guard who shall	
further checks.	further checks.	proceed with further checks.	
5. The person shall be referred to	5. The person shall be referred to	5. The person shall be referred to	
a border guard in the following	a border guard in the following	a border guard in the following	
situations:	situations:	situations:	
(a) when one of the conditions	(a) when one of the conditions	(a) when one of the conditions	
listed under paragraph 2 is not	listed under paragraph 2 is not	listed under paragraph 2 is not	
fulfilled;	fulfilled;	fulfilled;	
(b) when the results of the checks	(b) when the results of the checks	(b) when the results of the checks	
on entry or exit provided for under	on entry or exit provided for under	on entry or exit provided for under	
Article 8(2) question the identity of	Article 8(2) question the identity of	Article 8(2) question the identity of	
the person or when they reveal that	the person or when they reveal that	the person or when they reveal that	
the person represents a genuine,	the person represents a genuine,	the person represents a genuine,	
present and sufficiently serious threat	present and sufficiently serious threat	present and sufficiently serious threat	
to the internal security, public policy,	to the internal security, public policy,	to the internal security, public policy,	
international relations of the Member	international relations of the Member	international relations of the Member	
States or a threat to public health;	States or a threat to public health;	States or a threat to public health;	
(c) in case of doubt.	(c) in case of doubt.	(c) in case of doubt.	
6. Without prejudice to paragraph	6. Without prejudice to paragraph	6. Without prejudice to paragraph	
4, the border guard supervising the	4, the border guard supervising the	4, the border guard supervising the	
border crossing may decide to refer	border crossing may decide to refer	border crossing may decide to refer	
persons using the automated border	persons using the automated border	persons using the automated border	
control system to a border guard	control system to a border guard	control system to a border guard	
based on other reasons	based on other reasons	based on other reasons.	
7. Automated border control	7. Automated border control	7. Automated border control	
systems shall be operated under the	systems shall be operated under the	systems shall be operated under the	
supervision of a border guard who	supervision of a border guard who	supervision of a border guard who	
shall be in charge of observing the	shall be in charge of observing the	shall be in charge of observing the	
users and detecting any	users and detecting any	users and detecting any	
inappropriate, fraudulent or abnormal	inappropriate, fraudulent or abnormal	inappropriate, fraudulent or abnormal	
use of the system."	use of the system."	use of the system."	



	(4a) The following Article 8aa is inserted:		<i>To revert back pending outcome of</i> <i>Article 8a.</i>
	"Article 8aa		
	Standards for automated border control systems		
	1. Automated border control		
	systems shall be designed in such a		
	way that they can be used by all		
	persons, with the exception of		
	children under 12 years of age.		
	They shall also be designed in a way		
	that fully respects human dignity, in		
	particular in cases involving		
	vulnerable persons. Where Member		
	States decide to use automated		
	border control systems, they shall		
	ensure the presence of a sufficient		
	number of staff to assist persons		
	with the use of such systems.		
	2. The Commission in close		
	cooperation with eu-LISA shall be		
	empowered to adopt delegated acts		
	in accordance with Article 37		
	concerning the adoption of		
	additional technical standards for		
	automated border control systems."		
(5) The following Article 8b is	(5) The following Article 8b is	(5) The following Article 8b is	The EP explained that they have
inserted:	inserted:	inserted:	deleted Article 8b as they would like
			to see in the SBC changes only due to
			the EES. This therefore, means that the EP does not agree that there are
			new insertions which target EU/
			new insertions which larger EU/



			EEA/CH nationals and third country nationals who hold a residence permit because the latter fall outside of the scope of the EES. EP need to further discuss this internally.
"Article 8b	"Article 8b	"Article 8b	
Use of automated border control	Use of automated border control	Use of automated border control	
systems for third country nationals	systems for third country nationals	systems for third country nationals	
who hold a residence permit	who hold a residence permit	who hold a residence permit	
1. Third country nationals who	1. Third country nationals who	1. Third country nationals who	
hold a residence permit may be able	hold a residence permit may be able	hold a residence permit may be []	
to use automated border control	to use automated border control	permitted to use automated border	
systems where the following	systems where the following	control systems where the following	
cumulative conditions are met:	cumulative conditions are met:	cumulative conditions are met:	
(a) the travel document presented	(a) the travel document presented	(a) the travel document [] shall	
for the border crossing shall contain	for the border crossing shall contain	contain an electronic storage medium	
an electronic storage medium (chip)	an electronic storage medium (chip)	(chip) and the authenticity <u>and</u>	
and the authenticity of the chip data	and the authenticity of the chip data	integrity of the chip data shall be	
shall be confirmed using the	shall be confirmed using the	confirmed using the complete valid	
complete valid certificate chain;	complete valid certificate chain;	certificate chain;	
(b) the travel document presented	(b) the travel document presented	(b) the travel document [] shall	
for the border crossing shall contain	for the border crossing shall contain	contain a facial image recorded in the	
a facial image recorded in the chip	a facial image recorded in the chip	chip which can be [] technically	
which can be legally and technically	which can be legally and technically	accessed by the automated <u>border</u>	
accessed by the automated system so	accessed by the automated system so	<u>control</u> system so as to verify the	
as to verify the identity of the holder	as to verify the identity of the holder	identity of the holder of the travel	
of the travel document by comparing	of the travel document by comparing	document by comparing the facial	
the facial image recorded in the chip	the facial image recorded in the chip	image recorded in the chip and his or	
and his or her live facial image;	and his or her live facial image;	her live facial image; if technically	
		and legally possible, this verification	
		may be done by verifiving the live	



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



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



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

(6) The following Article 8c is	(6) The following Article 8c is	(6) The following Article 8c is	
inserted:	inserted:	inserted:	
"Article 8c	"Article 8c	"Article 8c	
Use of self-service systems for pre-	Use of self-service systems for pre-	Use of self-service systems for pre-	
enrolling data in the EES	enrolling data in the EES	enrolling data in the EES	
1. Persons whose border crossing	1. Persons whose border crossing	1. Persons whose border crossing	Provisionally agreed:
is subject to a registration in the EES	is subject to a registration in the EES	is subject to a registration in the EES	1. Persons whose border crossing
in accordance with Article 6a may	in accordance with Article 6a may	in accordance with Article 6a may	is subject to a registration in the EES
use self-service systems for the	use self-service systems for the	use self-service systems for the	in accordance with Article 6a may
purpose of pre-enrolling their	purpose of pre-enrolling their	purpose of pre-enrolling in the EES	use self-service systems for the
individual file data in the EES	individual file data in the EES	[] the [] data referred in	purpose of pre-enrolling in the EES
provided the following cumulative	provided the following cumulative	paragraph (4)(a) of this Article []	the data referred in paragraph (4)(a)
conditions are verified:	conditions are verified:	provided the following cumulative	of this Article provided the following
		conditions are verified:	cumulative conditions are verified:
(a) the travel document presented	(a) the travel document presented	(a) the travel document [] shall	Provisionally agreed:
for the border crossing shall contain	for the border crossing shall contain	contain an electronic storage medium	a) the travel document [] shall
an electronic storage medium (chip)	an electronic storage medium (chip)	(chip) and the authenticity <u>and</u>	contain an electronic storage medium
and the authenticity of the chip data	and the authenticity <i>and integrity</i> of	integrity of the chip data shall be	(chip) and the authenticity and
shall be confirmed using the	the chip data shall be confirmed	confirmed using the complete valid	integrity of the chip data shall be
complete valid certificate chain;	using the complete valid certificate	certificate chain;	confirmed using the complete valid
	chain;		certificate chain;
(b) the travel document presented	(b) the travel document presented	(b) the travel document [] shall	<b>Provisionally agreed</b> except text in []
for the border crossing shall contain	for the border crossing shall contain	contain a facial image recorded in the	brackets:
a facial image recorded in the chip	a facial image recorded in the chip	chip which can be [] technically	(b) the travel document shall
which can be legally and technically	which can be legally and technically	accessed by the [] <u>self-service</u>	contain a facial image recorded in the
accessed by the automated system so	accessed by the automated <i>border</i>	system so as to verify the identity of	chip which can be technically
as to verify the identity of the holder	<i>control</i> system so as to verify the	the holder of the travel document by	accessed by the <u>self-service</u> system
of the travel document by comparing	identity of the holder of the travel	comparing the facial image recorded	so as to verify the identity of the
the facial image recorded in the chip	document by comparing the facial	in the chip and his or her live facial	holder of the travel document by
and his or her live facial image.	image recorded in the chip and his or	image; if technically and legally	comparing the facial image recorded
	her live facial image	possible, this verification may be	in the chip and his or her live facial
		done by verifying the live	image; [if technically and legally



		fingerprints with the fingerprints recorded the in the chip of the travel document.	possible, this verification may be done by verifying the live fingerprints with the fingerprints recorded the in the chip of the travel document.]
2. Pursuant to paragraph 1, the self-service system shall verify whether the person has a previous registration in the EES and the identity of the third country national in accordance with Article 21(2) of [Regulation establishing the	2. Pursuant to paragraph 1, the self-service system shall verify whether the person has a previous registration in the EES and the identity of the third country national in accordance with Article 21(2) of [Regulation establishing the	2. Pursuant to paragraph 1, the self-service system shall verify whether the person has a previous registration in the EES and the identity of the third country national in accordance with Article 21(2) of [Regulation establishing the	
Entry/Exit System (EES)]. 3. In conformity with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)], the self- service system shall carry out an identification in accordance with Article 25 of [Regulation establishing the Entry/Exit System (EES)] in the following situations:	Entry/Exit System (EES)]. 3. In conformity with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)], the self- service system shall carry out an identification in accordance with Article 25 of [Regulation establishing the Entry/Exit System (EES)] in the following situations:	Entry/Exit System (EES)]. 3. In conformity with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)], the self- service system shall carry out an identification in accordance with Article 25 of [Regulation establishing the Entry/Exit System (EES)] []	Provisionally agreed: 3. In conformity with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)], the self- service system shall carry out an identification in accordance with Article 25 of [Regulation establishing the Entry/Exit System (EES)].
(a) the verification referred to in paragraph 2 indicates that data on the third country national are not recorded in the EES;	(a) the verification referred to in paragraph 2 indicates that data on the third country national are not recorded in the EES;	(a) []	Deletion provisionally agreed
<ul><li>(b) the verification of the third country national fails;</li><li>(c) there are doubts as to the identity of the third country national.</li></ul>	<ul> <li>(b) the verification of the third country national fails;</li> <li>(c) there are doubts as to the identity of the third country national.</li> </ul>	(b) [] (c) []	Deletion provisionally agreed Deletion provisionally agreed



		1	
In addition, in accordance with	In addition, in accordance with	In addition, in accordance with	
Articles 21(4) of the [Regulation	Articles 21(4) of the [Regulation	Articles 21(4) of the [Regulation	
establishing the Entry/Exit System	establishing the Entry/Exit System	establishing the Entry/Exit System	
(EES)] where an identification in the	(EES)] where an identification in the	(EES)] where an identification in the	
EES is carried out, the following	EES is carried out, the following	EES is carried out, the following	
provisions shall apply:	provisions shall apply:	provisions shall apply:	
(a) for third country nationals who	(a) for third country nationals who/	(a) for third country nationals who	Provisionally agreed compromise
are subject to a visa requirement to	are subject to a visa requirement to	are subject to a visa requirement to	proposal:
cross the external borders, if the	cross the external borders, if the	cross the external borders, if the	(a) for third country nationals who
search in the VIS with the data	search in the VIS with the data	search in the VIS with the data	are subject to a visa requirement to
referred to in Article 18(1) of	referred to in Article 18(1) of	referred to in Article 18(1) of	cross the external borders, if the
Regulation (EC) No 767/2008	Regulation (EC) No 767/2008	Regulation (EC) No 767/2008	search in the VIS with the data
indicates that the person is recorded	indicates that the person is recorded	indicates that the person is recorded	referred to in Article 18(1) of
in the VIS, a verification of	in the VIS, a verification of	in the VIS, a verification of	Regulation (EC) No 767/2008
fingerprints against the VIS shall be	fingerprints against the VIS shall be	fingerprints against the VIS shall be	indicates that the person is recorded
carried out in accordance with	carried out in accordance with	carried out in accordance with	in the VIS, a verification of
Article 18 (5) of Regulation (EC) No	Article 18 (5) of Regulation (EC) No	Article 18 (5) of Regulation (EC) No	fingerprints against the VIS shall be
767/2008; In circumstances where a	767/2008; In circumstances where a	767/2008. In circumstances where a	carried out in accordance with
verification of the person pursuant to	verification of the person pursuant to	verification of the person pursuant to	Article 18 (5) of Regulation (EC) No
paragraph 2 of this Article failed, the	paragraph 2/of this Article failed, the	paragraph 2 of this Article failed, the	767/2008. In circumstances where a
border authorities shall access the	border authorities shall access the	border guard [] shall access the	verification of the person pursuant to
VIS data for identification in	VIS data for identification in	VIS data for identification in	paragraph 2 of this Article failed, the
accordance with Article 20 of	accordance with Article 20 of	accordance with Article 20 of	border guard [] shall access the
Regulation (EC) No 767/2008.	Regulation (EC) No 767/2008.	Regulation (EC) No 767/2008.	VIS data for identification shall be
			accessed in accordance with Article
			20 of Regulation (EC) No 767/2008.
(b) for third country nationals who	(b) for third country nationals who	(b) for third country nationals who	
are not subject to a visa requirement	are not subject to a visa requirement	are not subject to a visa requirement	
to cross the external borders and who	to cross the external borders and who	to cross the external borders and who	
are not found in the EES further to	are not found in the EES further to	are not found in the EES further to	
the identification run in accordance	the identification run in accordance	the identification run in accordance	
with Article 25 of [Regulation	with Article 25 of [Regulation	with Article 25 of [Regulation	



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establishing the Entry/Exit System	establishing the Entry/Exit System	establishing the Entry/Exit System	
(EES)], the VIS shall be consulted in	(EES)], the VIS shall be consulted in	(EES)], the VIS shall be consulted in	
accordance with Article 19a of	accordance with Article 19a of	accordance with Article 19a of	
Regulation (EC) No 767/2008.	Regulation (EC) No 767/2008.	Regulation (EC) No 767/2008.	
4. In the event that data on the	4. In the event that data on the	4. In the event that data on the	
person is not recorded in the EES	person is not recorded in the EES	person is not recorded in the EES	
pursuant to paragraphs 2 and 3, the	pursuant to paragraphs 2 and 3, the	pursuant to paragraphs 2 and 3, the	
following provisions shall apply:	following provisions shall apply:	following provisions shall apply:	
(a) third country nationals who are	(a) third country nationals who are/	(a) third country nationals who are	Provisionally agreed except text in []
subject to a visa requirement to cross	subject to a visa requirement to cross	subject to a visa requirement to cross	brackets which will be dealt with
the external borders shall pre-enrol in	the external borders shall pre-enrol in	the external borders shall pre-enrol in	together with Article 8e:
the EES through the self-service	the EES through the self-service	the EES through the self-service	(a) third country nationals who are
system the data listed under Article	system the data listed under Article	system the data listed under Article	subject to a visa requirement to cross
14(1) of [Regulation establishing the	14(1) of [Regulation establishing the	14(1), (2)(c), (d),(e), (f) and [(g)]	the external borders shall pre-enrol in
Entry/Exit System (EES)] and third	Entry/Exit System (EES)] and third	and, where relevant, the data referred	the EES through the self-service
country nationals who are not subject	country nationals who are not subject	to under Article 14 (6) of [Regulation	system the data listed under Article
to a visa requirement to cross the	to a visa requirement to/cross the	establishing the Entry/Exit System	14(1), (2)(c), (d),(e), (f) and [(g)]
external borders shall pre-enrol in the	external borders shall pre-enrol in the	(EES)] and third country nationals	and, where relevant, the data referred
EES through the self-service system	EES through the self-service system	who are not subject to a visa	to under [Article 14 (6)] of
the data listed under Article 15(1), of	the data listed under Article 15(1), of	requirement to cross the external	[Regulation establishing the
[Regulation establishing the	[Regulation establishing the	borders shall pre-enrol in the EES	Entry/Exit System (EES)] and third
Entry/Exit System (EES)];	Entry/Exit System (EES)];	through the self-service system the	country nationals who are not subject
		data listed under Articles 15(1)(a),	to a visa requirement to cross the
		(b) and (c) and 14(2)(c) and, where	external borders shall pre-enrol in the
		relevant, the data referred to in	EES through the self-service system
		Article (15)(1)(d), of [Regulation	the data listed under Articles
		establishing the Entry/Exit System	15(1)( <u>a</u> ), (b) and (c) and 14(2)(c)
		(EES)];	and, where relevant, the data referred
			to in Article (15)(1)(d), of
			[Regulation establishing the
	$\bigvee$		Entry/Exit System (EES)];



(b) subsequently, the person shall	(b) subsequently, the person-shall	(b) subsequently, the person shall	
be referred to a border guard who	be referred to a border guard who	be referred to a border guard who	
shall:	shall:	shall:	
(a) where not all the required data	(a) where not all the required data	(i)[] where not all the required	<ul> <li><i>Provisionally agreed:</i></li> <li>(i) where not all the required data could be collected through the self-service kiosk, pre-enrol the concerned data,</li> </ul>
could be collected through the self-	could be collected through the self-	data could be collected through the	
service kiosk, pre-enrol the	service kiosk, pre-enrol the	self-service kiosk, pre-enrol the	
concerned data,	concerned data,	concerned data,	
(b) verify:	(b) verify:	<u>(ii)</u> [] <u>verify</u> :	<i>Provisionally agreed:</i> (ii) verify:
a) that the travel document used	a) that the travel document used	$([]\underline{1})$ that the travel document	<ul> <li><i>Provisionally agreed:</i></li> <li>(1) that the travel document used at the self service system corresponds to the one held by the person in front of the border guard;</li> </ul>
at the self service system corresponds	at the self service system corresponds	used at the self service system	
to the one held by the person in front	to the one held by the person in front	corresponds to the one held by the	
of the border guard;	of the border guard;	person in front of the border guard;	
(b) that the live facial image of the person concerned corresponds to the facial image that was collected though the self service system;	(b) that the live facial image of the person concerned corresponds to the facial image that was collected though the self service system;	([]2) that the live facial image of the person concerned corresponds to the facial image that was collected though the self service system;	<b>Provisionally agreed:</b> ([2) that the live facial image of the person concerned corresponds to the facial image that was collected though the self service system;
(c) and, for persons who do not	(c) and, for persons who do not	([] <u>3</u> ) and, for persons who do	<ul> <li>Provisionally agreed:</li> <li>(3) and, for persons who do not hold a visa required pursuant to Regulation (EC) No 539/2001, that the live fingerprints of the concerned person correspond to the fingerprints that were collected though the self-service system;</li> </ul>
hold a visa required pursuant to	hold a visa required pursuant to	not hold a visa required pursuant to	
Regulation (EC) No 539/2001, that	Regulation (EC) No 539/2001, that	Regulation (EC) No 539/2001, that	
the live fingerprints of the concerned	the live fingerprints of the concerned	the live fingerprints of the concerned	
person correspond to the fingerprints	person correspond to the fingerprints	person correspond to the fingerprints	
that were collected though the self-	that were collected though the self-	that were collected though the self-	
service system;	service system;	service system;	



(c) when the decision to authorise or refuse entry has been taken, confirm the individual file in the EES and introduce the data foreseen under Articles 14(2), 16(1) or 16(3) of the [Regulation establishing the Entry/Exit System (EES)]).	(c) when the decision to authorise or refuse entry has been taken, confirm the individual file in the EES and introduce the data foreseen under Articles 14(2), 16(1) or 16(3) of the [Regulation establishing the Entry/Exit System (EES)]).	(iii[]) when the decision to authorise or refuse entry has been taken, confirm the [] <u>data referred</u> to in point (a) of this paragraph and introduce the data foreseen under Articles $14(2)(a)$ , (b) [] or 16(2)(a), (b), (c) and (d) []) of the [Regulation establishing the Entry/Exit System (EES)]).	Provisionally agreed: iii) when the decision to authorise or refuse entry has been taken, confirm the <u>data referred to in point</u> (a) of this paragraph and introduce the data foreseen under Articles 14(2)(a), (b) [] or 16(2)(a), (b), (c) and (d) []) of the [Regulation establishing the Entry/Exit System (EES)]).
5. Where it results from the operations provided for in paragraphs 2, 3 and 4 that data on the person are recorded into the EES, the self-service system shall check whether one or more of the data listed under Articles 14(1) or 15(1) of the [Regulation establishing the Entry/Exit System (EES)] need to be updated. In addition, if it results that data on the person are recorded into the EES but that the third country national intends to cross for the first time after the creation of the individual file the external borders of a Member State which is subject to the application of Regulation (EC) No 767/2008, the VIS shall be consulted as referred to under Article 21(5) of the [Regulation establishing the Entry/Exit System (EES)]	5. Where it results from the operations provided for in paragraphs 2, 3 and 4 that data on the person are recorded into the EES, the self-service system shall check whether one or more of the data listed under Articles 14(1) or 15(1) of the [Regulation establishing the Entry/Exit System (EES)] need to be updated. In addition, if it results that data on the person are recorded into the EES but that the third country national intends to cross for the first time after the creation of the individual file the external borders of a Member State which is subject to the application of Regulation (EC) No 767/2008, the VIS shall be consulted as referred to under Article 21(5) of the [Regulation establishing the Entry/Exit System (EES)]	5. Where it results from the operations provided for in paragraphs 2 and 3 [] that data on the person are recorded into the EES, the self-service system shall check whether one or more of the data referred in paragraph (4)(a) of this Article [] need to be updated. [].	Pending agreement due to link with the passive access to VIS with regard to the Council deletion.



6. Where it is verified pursuant to paragraph 5 that the person has a previous file registered in the EES but that his or her individual file needs to be updated, the following provisions shall apply:	6. Where it is verified pursuant to paragraph 5 that the person has a previous file registered in the EES but that his or her individual file needs to be updated, the following provisions shall apply:	6. Where it is verified pursuant to paragraph 5 that the person has an [] <u>individual</u> file registered in the EES but that his or her <u>data []</u> needs to be updated, the following provisions shall apply:	<ul> <li><i>Provisionally agreed:</i></li> <li>6. Where it is verified pursuant to paragraph 5 that the person has an <u>individual</u> file registered in the EES but that his or her <u>data</u> needs to be updated, the following provisions shall apply:</li> </ul>
(a) the person shall pre-enrol	(a) the person shall pre-enrol	(a) the person shall pre-enrol	
through the self-service system the	through the self-service system the	through the self-service system the	
updated data in the EES;	updated data in the EES;	updated data in the EES;	
(b) the person shall be referred to a	(b) the person shall be referred to a	(b) the person shall be referred to a	
border guard. That border guard shall	border guard. That border guard shall	border guard. That border guard shall	
verify the correctness of the update	verify the correctness of the update	verify the correctness of the update	
that was pre-enrolled through the	that was pre-enrolled through the	that was pre-enrolled through the	
self-service system and, when the	self-service system and, when the	self-service system and, when the	
decision to authorise or refuse entry	decision to authorise or refuse entry	decision to authorise or refuse entry	
has been taken, update the individual	has been taken, update the individual	has been taken, update the individual	
file in accordance with Article 13(2)	file in accordance with Article 13(2)	file in accordance with Article 13(2)	
of [Regulation establishing the	of [Regulation establishing the	of [Regulation establishing the	
Entry/Exit System (EES)].	Entry/Exit System (EES)].	Entry/Exit System (EES)].	
7. Self-service systems shall be	7. Self-service systems shall be	7. Self-service systems shall be	
operated under the supervision of a	operated under the supervision of a	operated under the supervision of a	
border guard who shall be in charge	border guard who shall be in charge	border guard who shall be in charge	
of detecting any inappropriate,	of detecting any inappropriate,	of detecting any inappropriate,	
fraudulent or abnormal use of the	fraudulent or abnormal use of the	fraudulent or abnormal use of the	
system."	system."	system."	

<ul> <li>(7) The following Article 8d is inserted:</li> <li>"Article 8d</li> <li>Use of self-service systems and/or egates for the border crossing of third country nationals of whose border crossing is subject to a registration in the EES</li> </ul>	<ul> <li>(7) The following Article 8d is inserted:</li> <li>"Article 8d</li> <li>Use of self-service systems and/or egates for the border crossing of third country nationals of whose border crossing is subject to a registration in the EES</li> </ul>	<ul> <li>(7) The following Article 8d is inserted:</li> <li>"Article 8d</li> <li>Use of self-service systems and/or egates for the border crossing [] by third country nationals [] whose border crossing is subject to a registration in the EES</li> </ul>	<i>Provisionally agreed:</i> Article 8d Use of self-service systems and/or e- gates for the border crossing by third country nationals whose border crossing is subject to a registration in the EES
1. Persons whose border crossing	1. Persons whose border crossing	1. Persons whose border crossing	<ul> <li>Provisionally agreed:</li> <li>Persons whose border crossing is subject to a registration in the EES in accordance with Article 6a may be permitted to use a self-service system to have their border checks performed if the following cumulative conditions are met:</li> </ul>
is subject to a registration in the EES	is subject to a registration in the EES	is subject to a registration in the EES	
in accordance with Article 6a may be	in[]accordance with Article 6a may be	in accordance with Article 6a may be	
permitted to use a self-service system	permitted to use a self-service system	permitted to use a self-service system	
to have their border checks	to have their border checks	to have their border checks	
performed if the following	performed if the following	performed if the following	
cumulative conditions are met:	cumulative conditions are met:	cumulative conditions are met:	
(a) the travel document presented for the border crossing shall contain an electronic storage medium (chip) and the authenticity of the chip data shall be confirmed using the complete valid certificate chain;	(a) the travel document presented for the border crossing shall contain an electronic storage medium (chip) and the authenticity <i>and integrity</i> of the chip data shall be confirmed using the complete valid certificate chain;	(a) the travel document [] shall contain an electronic storage medium (chip) and the authenticity <u>and</u> <u>integrity</u> of the chip data shall be confirmed using the complete valid certificate chain;	Provisionally agreed: (a) the travel document shall contain an electronic storage medium (chip) and the authenticity <u>and</u> <u>integrity</u> of the chip data shall be confirmed using the complete valid certificate chain;
(b) the travel document presented	(b) the travel document presented	(b) the travel document [] shall	<ul> <li>Provisionally agreed:</li> <li>(b) the travel document shall contain a facial image recorded in the chip which can be technically accessed by the <u>self-service</u> system so as to verify the identity of the holder of the travel document, by comparing the facial image recorded</li> </ul>
for the border crossing shall contain	for the border crossing shall contain	contain a facial image recorded in the	
a facial image recorded in the chip	a facial image recorded in the chip	chip which can be []-technically	
which can be legally and technically	which can be legally and technically	accessed by the [] <u>self-service</u>	
accessed by the automated system so	accessed by the automated <i>border</i>	system so as to verify the identity of	
as to verify the identity of the holder	<i>control</i> system so as to verify the	the holder of the travel document, by	
of the travel document, by comparing	identity of the holder of the travel	comparing the facial image recorded	
the facial image recorded in the chip	document, by comparing the facial	in the chip and his/her live facial	



and his/her live facial image;	image recorded in the chip and	image;	in the chip and his/her live facial
	his/her live facial image;		image;
(c) the person is already enrolled	(c) the person is already enrolled	(c) the person is already enrolled	
or pre-enrolled in the EES.	or pre-enrolled in the EES.	or pre-enrolled in the EES.	
2. Where the conditions laid	2. Where the conditions laid	2. Where the conditions laid	Provisionally agreed:
down in paragraph 1 are met, the	down in paragraph 1 are met, the	down in paragraph 1 are met, the	2. Where the conditions laid
checks on entry and exit provided for	border checks on entry and exit	border checks on entry [] provided	down in paragraph 1 are met, the
in Articles 8(2) and 8(3)(a) and (b) or	provided for in Articles 8(2) and	for in Articles 8(2) and 8(3)(a) and	border checks on entry provided for
Articles $8(2)$ and $8(3)(g)$ and (h) may	8(3)(a) and (b) or Articles $8(2)$ and	(b) [] and on exit provided for in	in Articles 8(2) and 8(3)(a) and (b)
be carried out through a self-service	8(3)(g) and (h) may be carried out	Articles $8(2)$ and $8(3)(g)$ and (h) may	and on exit provided for in Articles
system. When carried out through an	through a self-service system. When	be carried out through a self-service	8(2) and 8(3)(g) and (h) may be
automated border control system, the	carried out through an automated	system. When carried out through an	carried out through a self-service
borders check on exit shall include	border control system, the borders	automated border control system, the	system. When carried out through an
the checks provided for in Article	check on exit shall include the	borders check on exit shall include	automated border control system, the
8(3)(h).	checks provided for in Article	the checks provided for in Article	borders check on exit shall include
	8(3)(h).	8(3)(h).	the checks provided for in Article
		If a person is granted access to a	8(3)(h).
		national facilitation programme	Where a person is granted access to
		established by a Member State	a national facilitation programme
		pursuant to Article 8e, the checks	established by a Member State
		carried out through a self-service	pursuant to Article 8e, the border
		system on entry may omit the	checks carried out through a self-
		examination of the aspects referred to	service system on entry may omit the
		in Article 8(3)(a)(iv) and (v) when	examination of the aspects referred to
		crossing the external borders of that	in Article 8(3)(a)(iv) and (v) when
		Member State or the external borders	crossing the external borders of that
		of another Member State having	Member State or the external borders
		concluded an agreement with the	of another Member State having
		Member State which granted the	concluded an agreement with the
		access as referred to under Article	Member State which granted the
		<u>8e(8).</u>	access as referred to under Article
			8e(8).

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67 EN

	2a. Where a person is granted access to a national facilitation programme established by a Member State pursuant to Article 8e, the border checks carried out through a self-service system on entry may not include examination of the aspects referred to in Article 8(3)(a) (iv) and (v) when crossing the external borders of that Member State or the external borders of another Member State having concluded an agreement as referred to in Article 8e(4) with that Member State.		This is covered by para 2 above.
3. On entry and exit, the results of the border checks carried out through the self-service system shall be made available to a border guard. Taking into account the results of the border checks, this border guard shall authorise entry or exit or, otherwise, refer the person to a border guard.	3. On entry and exit, the results of the border checks carried out through the self-service system shall be made available to a border guard. Taking into account the results of the border checks, this border guard shall authorise entry or exit or, otherwise, refer the person to a border guard.	3. On entry and exit, the results of the border checks carried out through the self-service system shall be made available to a border guard. [] This border guard shall monitor the results of border checks and, taking into account these results, authorise the entry or exit or, otherwise, refer the person to a border guard who shall proceed with further checks.	<ul> <li>Provisionally agreed:</li> <li>3. On entry and exit, the results of the border checks carried out through the self-service system shall be made available to a border guard. This border guard shall monitor the results of border checks and, taking into account these results, authorise the entry or exit or, otherwise, refer the person to a border guard who shall proceed with further checks.</li> </ul>
<ul> <li>4. The person shall be referred to a border guard in the following situations:</li> <li>(a) when one or several of the conditions listed under paragraph 1 is or are not fulfilled;</li> </ul>	<ul> <li>4. The person shall be referred to a border guard in the following <u>situations:</u></li> <li>(a) when one or several of the conditions listed under paragraph 1 is or are not fulfilled;</li> </ul>	<ul> <li>4. The person shall be referred to a border guard in the following situations:</li> <li>(a) when one or several of the conditions listed under paragraph 1 is or are not fulfilled;</li> </ul>	

68 EN

(b) when the checks on entry or	(b) when the checks on entry or	(b) when the checks on entry or	
exit under paragraph 2 reveal that	exit under paragraph 2 reveal that	exit under paragraph 2 reveal that	
one or several of the entry or exit	one or several of the entry or exit	one or several of the entry or exit	
conditions are not met;	conditions are not met;	conditions are not met;	
(c) when the results of the checks	(c) when the results of the checks	(c) when the results of the checks	
on entry or exit under paragraph 2	on entry or exit under paragraph 2	on entry or exit under paragraph 2	
put into question the identity of the	put into question the identity of the	put into question the identity of the	
person or when they reveal that the	person or when they reveal that the	person or when they reveal that the	
person is considered to be a threat to	person is considered to be a threat to	person is considered to be a threat to	
the internal security, public policy,	the internal security, public policy,	the internal security, public policy,	
international relations of any of the	international relations of any of the	international relations of any of the	
Member States or to public health;	Member States or to public health;	Member States or to public health;	
(d) in case of doubt;	(d) in case of doubt;	(d) in case of doubt.	
(e) when no e-gates are available.	(e) when no e-gates are available.	(e) when no e-gates are available.	
5. In addition to the situations	5. In addition to the situations	5. In addition to the situations	
referred to in paragraph 4, the border	referred to in paragraph 4, the border	referred to in paragraph 4, the border	
guard supervising the border crossing	guard supervising the border crossing	guard supervising the border crossing	
may decide to refer persons using	may decide to refer persons using	may decide to refer persons using	
self-service system to a border guard	self-service system to a border guard	self-service system to a border guard	
based on other reasons.	based on other reasons.	based on other reasons.	
6. Persons whose border crossing	6. Persons whose border crossing	6. Persons whose border crossing	
is subject to a registration in the EES	is subject to a registration in the EES	is subject to a registration in the EES	
in accordance with Article 6a(1) and	in accordance with Article $6a(1)$ and	in accordance with Article 6a(1) and	
who used a self-service system for	who used a self-service system for	who used a self-service system for	
the performance of their border	the performance of their border	the performance of their border	
checks may be authorised to use an	checks may be authorised to use an	checks may be authorised to use an	
e-gate. Where an e-gate is used, the	e-gate. Where an e-gate is used, the	e-gate. Where an e-gate is used, the	
corresponding registration of the	corresponding registration of the	corresponding registration of the	
entry/exit record and the linking of	entry/exit_record and the linking of	entry/exit record and the linking of	
that record to the concerned	that record to the concerned	that record to the concerned	
individual file pursuant to Article 13	individual file pursuant to Article 13	individual file pursuant to Article 13	
of [Regulation establishing the	of [Regulation establishing the	of [Regulation establishing the	
¥¥	· · · · · · · · · · · · · · · · · · ·	· · · · · · · · · · · · · · · · · · ·	



Entry/Exit System (EES)] shall be	Entry/Exit System (EES)] shall be	Entry/Exit System (EES)] shall be	
carried out when performing the	carried out when performing the	carried out when performing the	
border crossing through the e-gate.	border crossing through the e-gate.	border crossing through the e-gate.	
Where the e-gate is not aggregated to	Where the e-gate is not aggregated to	Where the e-gate is not aggregated to	
the self- service system, a verification	the self- service system, a verification	the self- service system, a verification	
of the identity of the user shall take	of the identity of the user shall take	of the identity of the user shall take	
place at the e-gate in order to verify	place at the e-gate in order to verify	place at the e-gate in order to verify	
that the person using the e-gate	that the person using the e-gate	that the person using the e-gate	
corresponds to the person that used	corresponds to the person that used	corresponds to the person that used	
the self-service system. The	the self-service system. The	the self-service system. The	
verification shall be made by using at	verification shall be made by using at	verification shall be made by using at	
least one biometric identifier.	Jeast one biometric identifier.	least one biometric identifier.	
7. Where the conditions listed in	7. Where the conditions listed in $/$	7. Where the conditions listed in	A reference to Article 8(2) SBC is
Article $8d(1)(a)$ or (b), or in both, are	Article $8d(1)(a)$ or (b), or in both, are	[] <u>paragraph</u> 1(a) or (b) <u>of this</u>	necessary here in order to include
not fulfilled, part of the border	not fulfilled, part of the border	Article, or in both, are not fulfilled,	persons enjoying the right of free
checks on entry and exit pursuant to	checks on entry and exit pursuant to	part of the border checks on entry	movement under Union Law.
Article 8(3)(a) and (b) as well as	Article 8(3)(a) and (b) as well as	pursuant to Article 8(3)(a) and (b)	Provisionally agreed text:
Article 8(3)(g) and (h) may be	Article $8(3)(g)$ and (h) may/be	and exit pursuant to [] Article	7. Where the conditions listed in
carried out through a self-service	carried out through a self-service	8(3)(g) and (h) may be carried out	[] paragraph 1(a) or (b) of this
system. Where the border guard can	system. Where the border guard can	through a self-service system. []	Article, or in both, are not fulfilled,
technically retrieve, and is legally	technically retrieve, and is legally	<u>The border guard may perform only</u>	part of the border checks on entry
permitted to retrieve, the results of	permitted to retrieve, the results of	those verifications pursuant to	pursuant to Article 8(2) or Article
the border checks that were carried	the border checks that were carried	Article 8(3)(a) and (b) as well as	8(3)(a) and (b) and exit pursuant to
out through the self-service system	out through the self-service system	Article 8(3)(g) and (h) that could not	[] Article $8(3)(g)$ and (h) may be
and those results show that the	and those results show that the	be carried out through the self-	carried out through a self-service
outcomes of the checks are positive,	outcomes of the checks are positive,	service system. In addition, the	system. [] The border guard may
the border guard may perform only	the border guard may perform only	border guard shall verify that the	perform only those verifications
those verifications pursuant to	those verifications pursuant to	travel document used at the self-	pursuant to Article 8(2) or Article
Article 8(3)(a) and (b) as well as	Article 8(3)(a) and (b) as well as	service system corresponds to the	8(3)(a) and (b) as well as Article
Article 8(3)(g) and (h) that could not	Article 8(3)(g) and (h) that could not	one held by the person standing	8(3)(g) and (h) that could not be
be carried out through the self-	be carried out through the self-	before the border guard.	carried out through the self-service
service system. In addition, the	/service system. In addition, the		system. In addition, the border guard



border guard shall verify that the	border guard shall verify that the		shall verify that the travel document
travel document used at the self-	travel document used at the self-		used at the self- service system
service system corresponds to the	service system corresponds to the		corresponds to the one held by the
one held by the person standing	one held by the person standing		person standing before the border
before the border guard.	before the border guard.		guard.
8. Self-service systems and e-	8. Self-service systems and e-	8. Self-service systems and e-	
gates shall be operated under the	gates shall be operated under the	gates shall be operated under the	
supervision of a border guard who	supervision of a border guard who	supervision of a border guard who	
shall be in charge of detecting any	shall be in charge of detecting any	shall be in charge of detecting any	
inappropriate, fraudulent or abnormal	inappropriate, fraudulent or abnormal	inappropriate, fraudulent or abnormal	
use of the system or e-gate, or both."	use of the system or e-gate, or both."	use of the system or e-gate, or both."	
(8) The following Article 8e is	(8) The following Article 8e is	(8) The following Article 8e is	
inserted:	inserted:	inserted:	
"Article 8e	"Article 8e	"Article 8e	
National facilitation programmes	National facilitation programmes	National facilitation programmes	
1. Each Member State may	1. Each Member State may	1. Each Member State may	Provisionally agreed:
establish a voluntary programme in	establish a voluntary programme in	establish a voluntary programme in	1. Each Member State may
order to allow third country nationals	order to allow third country nationals	order to allow third country nationals	establish a voluntary programme in
as defined in Article 2(6) or nationals	as defined in Article 2(6) or nationals	[] or nationals of a specific third	order to allow third country nationals
of a specific third country who do not	of a specific third country who do not	country who do not enjoy the right of	or nationals of a specific third
benefit from the right of free	benefit from enjoy the right of free	free movement under Union law []	country who do not enjoy the right of
movement to benefit from the	movement under Union law to	to benefit from the facilitations made	free movement under Union law to
facilitations made pursuant to	benefit from the facilitations made	pursuant to paragraph 2 of this	benefit from the facilitations made
paragraph 2 of this Article when	pursuant to paragraph 2 of this	Article when crossing the external	pursuant to paragraph 2 of this
crossing the external border of a	Article when crossing the external	border of a Member State.	Article when crossing the external
Member State.	border of a Member State.		border of a Member State.
2. By way of derogation from	2. By way of derogation from	2. By way of derogation from	Provisionally agreed:
Article $8(3)(a)$ , for third country	Article 8(3)(a), for third country	Article 8(3)(a), for third country	2. By way of derogation from
nationals referred to paragraph 1 of	nationals referred to paragraph 1 of	nationals referred to paragraph 1 of	Article 8(3)(a), for third country
this Article and who are granted	this Article and who are granted	this Article and who are granted	nationals referred to paragraph 1 of
access to the programme, the	access to the programme, the	access to the programme, the	this Article and who are granted
thorough checks on entry may not	thorough checks on entry may not	thorough checks on entry may not	access to the programme, the



bects include examination of the aspects thorough checks on entry may not
v) and referred to in Article 8(3)(a) (iv) and include examination of the aspects
border (v) when crossing the external border referred to in Article 8(3)(a) (iv) and
of such a Member State []. (v) when crossing the external border
of such a Member State.
s out a 2a. [] The Member State shall Compromise proposal:
<u>carry out a pre-vetting of third</u> 2a. The Member State shall carry
ramme; <u>country nationals applying to the</u> out a pre-vetting of third country
programme nationals applying to the programme
in order to verify in particular,
that the conditions referred to in
paragraph 3 are fulfilled.
to in [] The pre-vetting is carried out by Compromise proposal:
or <u>border guards, visa authorities or by</u> The pre-vetting <b>shall be</b> carried out
neaning <u>immigration authorities defined</u> by border guards, visa authorities or
EC) <u>under Article 3(1)(3) of Regulation</u> by [immigration authorities] defined
establishing the Entry/Exit system under Article 3(1)(3) of Regulation
ational (EES); establishing the Entry/Exit system
rsons at (EES);
pints in
on;
o in (c)3. The <u>competent</u> authorities <u>of a</u> <i>Compromise proposal</i> :
s to the $Member State []$ only grant access 3. The <b>authorities referred to in</b>
following minimum conditions are to the programme when the
met: following minimum conditions are
met:
entry <u>a)</u> the applicant fulfils the entry <b><i>Provisionally agreed</i></b> :
1) of conditions set out in Article 6(1) of a) the applicant fulfils the entry
this Regulation; conditions set out in Article 6(1) of
this Regulation;
d t an n e point te e e



(ii) the applicant's travel document,	(ii) the applicant's travel document,	b) the applicant's travel document,	
(ii) the applicant's travel document, visa and/ or residence permit	visa and/ or residence permit	<u>b)</u> the applicant's travel document, visa, [or a touring visa], long-stay	
1	¥		
presented, is or are valid and not	presented, is or are valid and not	visa and/ or residence permit	
false, counterfeited or forged;	false, counterfeited or forged;	presented, is or are valid and not	
		false, counterfeited or forged;	
(iii) the applicant proves the need	(iii) the applicant proves the need	<u>c)</u> the applicant proves the need	Provisionally agreed:
for or justifies the intention to travel	for or justifies the intention to travel	for or justifies the intention to travel	c) the applicant proves the need
frequently or regularly;	frequently or regularly;	frequently or regularly;	for or justifies the intention to travel
			frequently or regularly;
(iv) the applicant proves integrity	(iv) the applicant proves <i>his or her</i>	<u>d)</u> the applicant proves integrity	The EP's amendment is in line with
and reliability, in particular, if	integrity and reliability, in particular,	and reliability, in particular, if	the VISA Code, article 24(2)(b).
applicable, that previous visas with	if where applicable, that the lawful	applicable, that previous visas with	Provisionally agreed:
limited territorial validity have been	use of previous visas or visas with	limited territorial validity have been	(iv) the applicant proves <i>his or her</i>
lawfully used, the applicant's	limited territorial validity-have been	lawfully used, the applicant's	integrity and reliability, in particular,
economic situation in the country of	lawfully used, the applicant's	economic situation in the country of	where applicable, the lawful use of
origin and the genuine intention to	economic situation in the country of	origin and the genuine intention to	previous visas or visas with limited
leave the territory of the Member	origin and the genuine intention to	leave the territory of the Member	territorial validity, his or her
States in due time. In accordance	leave the territory of the Member	States in due time. In accordance	economic situation in the country of
with Article 23 of [Regulation	States in due time, his or her	with Article 23 of [Regulation	origin and his or her genuine
establishing the Entry/Exit System	economic situation in the country of	establishing the Entry/Exit System	intention to leave the territory of the
(EES)], the authorities referred to in	origin and his or her genuine	(EES)], the <u>competent</u> authorities	Member States before the expiry of
paragraph b) of this Article shall	intention to leave the territory of the	[] shall have access to consult the	the visa, where applicable, or the
have access to consult the EES to	Member States before the expiry of	EES to verify that the applicant has	end of the authorised period of stay.
verify that the applicant has not	the visa, where applicable, or the	not previously exceeded the	In accordance with Article 23 of
previously exceeded the maximum	end of the authorised period of stay.	maximum duration of authorised stay	[Regulation establishing the
duration of authorised stay in the	In accordance with Article 23 of	in the territory of the Member States;	Entry/Exit System (EES)], the
territory of the Member States;	[Regulation establishing the	- · · · · ·	authorities referred to in paragraph
	Entry/Exit System (EES)], the		2a of this Article shall have access to
	authorities referred to in paragraph b)		consult the EES to verify that the
	of this Article shall have access to		applicant has not previously
	consult the EES to verify that the		exceeded the maximum duration of
	applicant has not previously		authorised stay in the territory of the



	exceeded the maximum duration of authorised stay in the territory of the Member States;		Member States;
(v) the applicant justifies the purpose and conditions of the intended stays;	(v) the applicant justifies the purpose and conditions of the intended stays;	e) the applicant justifies the purpose and conditions of the intended stays;	<ul> <li>Provisionally agreed:</li> <li><u>e)</u> the applicant justifies the purpose and conditions of the intended stays;</li> </ul>
(vi) the applicant possesses sufficient means of subsistence both for the duration of the intended stays and for the return to the country of origin or residence, or that the applicant is in a position to acquire such means lawfully;	(vi) the applicant possesses sufficient means of subsistence both for the duration of the intended stays and for the return to the country of origin or residence, or that the applicant is in a position to acquire such means lawfully;	$\underline{f}$ the applicant possesses sufficient means of subsistence both for the duration of the intended stays and for the return to the country of origin or residence, or that the applicant is in a position to acquire such means lawfully;	<i>Provisionally agreed:</i> f) the applicant possesses sufficient means of subsistence both for the duration of the intended stays and for the return to the country of origin or residence, or that the applicant is in a position to acquire such means lawfully;
(vii) the applicant is not a person for whom an alert has been issued in the Schengen Information System (SIS);	(vii) the applicant is not a person for whom an alert has been issued in the Schengen Information System (SIS);	[]	Commission to propose drafting suggestion.
(viii) the applicant is not considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States, in particular where no alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds.	(viii) the applicant is not considered to be a threat to public policy, internal security, public health or the international relations of any of the Member States, in particular where no alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds.	[]	Commission to propose drafting suggestion.

(d) access to the programme shall	(d) access to the programme shall	(d)4. First access to the programme	Provisionally agreed:
be granted for a maximum of one	be granted for a maximum of one	shall be granted for a maximum of	4. First access to the programme
year;	year;	one year, and can be prolonged after	shall be granted for a maximum of
your,	year,	this first year for a maximum of 5	one year, and <u>can be prolonged after</u>
		more years or until the end of the	this first year for a maximum of 5
		validity period of the travel	more years or until the end of the
		document, any issued multiple-entry	validity period of the travel
		visas, long-stay visas and residence	document, any issued multiple-entry
		permits, whichever is shorter;	visas, long-stay visas and residence
		permits, whichever is shorter,	permits, whichever is shorter;
(e) the Member State shall reassess	(a) the Member State shall reasoned	In case of a nucleon section the Member	
	(e) the Member State shall reassess	In case of a prolongation the Member	Provisionally agreed:
every year the situation of each third	every year the situation of each third	State shall reassess every year the	In case of a prolongation the Member
country national who is granted	country national who is granted	situation of each third country	State shall reassess every year the
access to the programme in order to	access to the programme in order to	national who is granted access to the	situation of each third country
ensure that, based on updated	ensure that, based on updated	programme in order to ensure that,	national who is granted access to the
information, the applicant still meets	information, the applicant still meets	based on updated information, the	programme in order to ensure that,
the conditions laid down in Article	the conditions laid down in Article	[] the third country national	based on updated information, the
8e(2) (c);	8e(2) (c);	<u>concerned</u> still meets the conditions	the third country national concerned
		laid down in [] <u>paragraph 3. This</u>	still meets the conditions laid down
		reassessment could be performed at	in paragraph 3. This reassessment
		the occasion of border checks.	could be performed at the occasion
	/		of border checks.
(f) the thorough checks on entry	(f) the thorough checks on entry	(f) <u>5.</u> The [] checks on entry []	The Council addition at the end of
and exit pursuant to Articles 8(3)(a)	and exit pursuant to Articles $8(3)(a)$	pursuant to Articles 8(3)(a) and	this paragraph is of <u>great concern</u> as
and $8(3)(b)$ shall also comprise	and 8(3)(b) shall also comprise	8(3)(b) and on exit pursuant to	it causes a clear security breech
verification of the identity of the	verification of the identity of the	Article 8(3)(g) shall also comprise	since there is no electronic
third country national benefiting	third country national benefiting	[] the fact that the third country	comparison of the biometrics.
from the programme and the fact that	from the programme and the fact that	has a valid access to the programme;	Delegations are encouraged to delete
the third country has a valid access to	the third country has a valid access to	Border guards may carry out	the Council's addition and to revert
the programme;	the programme;	verification of the third country	back to the Commission proposal:
		national benefiting from the	(f) the thorough checks on entry
		programme on entry pursuant to	and exit pursuant to Articles 8(3)(a)



		Articles 8(3)(a) and 8(3)(b) and on exit pursuant to Article 8(3)(g) without comparing electronically biometrics, but by comparing a facial image taken from the chip and the facial image of the passenger's individual EES file with a passenger. Full verification shall be carried out at random and on the basis of risk	and 8(3)(b) shall also comprise verification of the identity of the third country national benefiting from the programme and the fact that the third country has a valid access to the programme;
(g) the authorities referred to in	(g) the authorities referred to in	<u>analysis.</u> (g)6. The competent authorities of a	Provisionally agreed:
paragraph (b) shall immediately	paragraph (b) shall immediately	Member State [] shall immediately	6. The authorities <b>referred to in</b>
revoke the access granted to a third	revoke the access granted to a third	revoke the access granted to a third	<b>paragraph 2a</b> shall immediately
country national to the programme:	country national to the programme:	country national to the programme:	revoke the access granted to a third
			country national to the programme:
(i) if it becomes evident that the	(i) if it becomes evident that the	(i) if it becomes evident that the	Provisionally agreed:
conditions for granting access to the	conditions for granting access to the	conditions for granting access to the	(i) if it becomes evident that the
programme were not met;	programme were not met;	programme were not met; <u>or</u>	conditions for granting access to the
			programme were not met; <u>or</u>
(ii) if it becomes evident that the	(ii) if it becomes evident that the	(ii) if it becomes evident that the	
conditions for granting access to the	conditions for granting access to the	conditions for granting access to the	
programme are no longer met.	programme are no longer met.	programme are no longer met.	
When verifying that the applicant	When verifying that the applicant	<u>7.</u> When verifying that the	Provisionally agreed:
fulfils conditions set out in points (a),	fulfils conditions set out in points (a),	applicant fulfils conditions set out in	7. When verifying <b>in accordance</b>
(b) and (c), particular consideration	(b) and (c), particular consideration	[] <u>paragraph 3</u> , particular	with paragraph 2a that the applicant
shall be given to assessing whether	shall be given to assessing whether	consideration shall be given to	fulfils conditions set out in []
the applicant presents a risk of illegal	the applicant presents a risk of illegal	assessing whether the applicant	paragraph 3, particular consideration
immigration or a risk to the security	immigration or a risk to the security	presents a risk of illegal immigration	shall be given to assessing whether
of the Member State(s) and whether	of the Member State(s) and whether	or a risk to the security of the	the applicant presents a risk of illegal
the applicant intends to leave the	the applicant intends to leave the	Member State(s) and whether the	immigration or a risk to the security
territory of the Member State(s)	territory of the Member State(s)	applicant intends to leave the	of the Member State(s) and whether
during the authorised stay.	during the authorised stay.	territory of the Member State(s)	the applicant intends to leave the



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

statements made by the applicant. If

a Member State responsible for

doubts about the applicant, the

before any decision on the

application is taken.

examining an application has any

applicant's statements or supporting

documents that have been provided,

it may consult other Member States

The means of subsistence for the intended stays shall be assessed according to the duration(s) and the purpose(s) of the envisaged stay(s)and by reference to average prices in the Member State(s) concerned/for board and lodging in budget accommodation, on the basis of the reference amounts set by the Member States in accordance with Article 39(1)(c). A proof of sponsorship or private accommodation, or both, may also constitute evidence of sufficient means of subsistence. The examination of an application shall be based in particular on the authenticity and reliability of the documents submitted and on the veracity and reliability of the statements made by the applicant. If a Member State responsible for examining an application has any doubts about the applicant, the applicant's statements or supporting documents that have been provided, it may consult other Member States before any decision on the application is taken.

during the authorised stay. The means of subsistence for the intended stays shall be assessed according to the duration(s) and the purpose(s) of the envisaged stay(s) and by reference to average prices in the Member State(s) concerned for board and lodging in budget accommodation, on the basis of the reference amounts set by the Member States in accordance with Article 39(1)(c). A proof of sponsorship or private accommodation, or both, may also constitute evidence of sufficient means of subsistence. The examination of an application shall be based in particular on the authenticity and reliability of the documents submitted and on the veracity and reliability of the statements made by the applicant. If a Member State responsible for examining an application has any doubts about the applicant, the applicant's statements or supporting documents that have been provided, it may consult other Member States before any decision on the application is taken.

territory of the Member State(s) during the authorised stay. The means of subsistence for the intended stays shall be assessed according to the duration(s) and the purpose(s) of the envisaged stay(s) and by reference to average prices in the Member State(s) concerned for board and lodging in budget accommodation, on the basis of the reference amounts set by the Member States in accordance with Article 39(1)(c). A proof of sponsorship or private accommodation, or both, may also constitute evidence of sufficient means of subsistence. The examination of an application shall be based in particular on the authenticity and reliability of the documents submitted and on the veracity and reliability of the statements made by the applicant. If a Member State responsible for examining an application has any doubts about the applicant, the applicant's statements or supporting documents that have been provided, it may consult other Member States before any decision on the application is taken.



4. Two or more Member States having established their own national programme pursuant to this Article may conclude among them an agreement in order to ensure that the beneficiaries of their national programmes may benefit from the facilitations recognised by the other national programme(s). Within the time-limit of one month from the conclusion of the agreement, a copy of the agreement shall be transmitted to the Commission.	4. Two or more Member States having established their own national programme pursuant to this Article may conclude among them an agreement in order to ensure that the beneficiaries of their national programmes may benefit from the facilitations recognised by the other national programme(s). Within the time-limit of one month from the conclusion of the agreement, a copy of the agreement shall be transmitted to the Commission.	<u>4-8.</u> Two or more Member States having established their own national programme pursuant to this Article may conclude among them an agreement in order to ensure that the beneficiaries of their national programmes may benefit from the facilitations recognised by the other national programme(s). Within the time-limit of one month from the conclusion of the agreement, a copy of the agreement shall be transmitted to the Commission.	Provisionally agreed: <u>8.</u> Two or more Member States having established their own national programme pursuant to this Article may conclude among them an agreement in order to ensure that the beneficiaries of their national programmes may benefit from the facilitations recognised by the other national programme(s). Within the time-limit of one month from the conclusion of the agreement, a copy of the agreement shall be transmitted to the Commission.
	4a. In the case of third-country nationals benefiting from a national facilitation programme, border guards may carry out the verifications on entry pursuant to Article 8(3)(a) and (b) and on exit pursuant to Article 8(3)(g) without electronically comparing biometrics but by comparing a facial image		This paragraph is covered under paragraph 5.
	taken from the chip and the facial image of the third country national's individual EES file with the third-country national. Full verification shall be carried out at random and on the basis of a risk analysis.		

9468/17		GK/cr	78
ANNEX	DG D 1 A	LIMITE	EN

	4b. An adequate level of security shall be established between national facilitation programmes and the EES following a proper information security risk assessment.		EP withdrew its amendment.
	4c. When establishing such a national facilitation programme, Member States shall, in close cooperation with eu-LISA, ensure data security standards equivalent to those laid down in Article 39 of [Regulation establishing the Entry/Exit System (EES)]. Member States shall conduct a proper information security risk assessment and security responsibilities shall be made clear for all steps of the process.		Commission to provide drafting suggestions.
5. The Commission shall, before the end of the third year of application of this Article, transmit to the European Parliament and to the Council an evaluation of its implementation. On the basis of that evaluation, the European Parliament or the Council may invite the Commission to propose the establishment of a Union programme for frequent and pre-vetted third country national travellers."	5. The Commission shall, before the end of the third year of application of this Article, transmit to the European Parliament and to the Council an evaluation of its implementation. On the basis of that evaluation, the European Parliament or the Council may invite the Commission to propose the establishment of a Union programme for frequent and pre-vetted third country national travellers."	<u>59.</u> The Commission shall, before the end of the third year of application of this Article, transmit to the European Parliament and to the Council an evaluation of its implementation. On the basis of that evaluation, the European Parliament or the Council may invite the Commission to propose the establishment of a Union programme for frequent and pre-vetted third country national travellers."	<b>Provisionally agreed</b> : <u>9.</u> The Commission shall, before the end of the third year of application of this Article, transmit to the European Parliament and to the Council an evaluation of its implementation. On the basis of that evaluation, the European Parliament or the Council may invite the Commission to propose the establishment of a Union programme for frequent and pre-vetted third country national travellers.



(9) Article 9 is amended as	(9) Article 9 is amended as	(9) Article 9 is amended as	
follows:	follows:	follows:	
(a) Paragraph 3 is replaced by the	(a) Paragraph 3 is replaced by the	(a) Paragraph 3 is replaced by the	
following:	following:	following:	
"3. Even in the event that checks	"3. Even in the event that checks	"3. Even in the event that checks	
are relaxed, the border guard shall	are relaxed, the border guard shall	are relaxed, the border guard shall	
enter the data in the EES, in	enter the data in the EES, in	enter the data in the EES, in	
accordance with Article 6a. Where	accordance with Article 6a. Where	accordance with Article 6a. Where	
the data cannot be entered by	the data cannot be entered by	the data cannot be entered by	
electronic means it shall be entered	electronic means it shall be entered	electronic means it shall be entered	
manually."	manually."	manually."	
(b) The following paragraph 3a is	(b) The following paragraph 3a is	(b) The following paragraph 3a is	
inserted:	inserted:	inserted:	
"3a. In case of technical	"3a. In case of technical	"3a. In case of technical	
impossibility to enter data in the	impossibility to enter data in the	impossibility to enter data in the	
Central System of the EES or in case	Central System of the EES or in case	Central System of the EES or in case	
of failure of the Central System of	of failure of the Central System of	of failure of the Central System of	
the EES, the following provisions	the EES, the following provisions	the EES, the following provisions	
shall apply:	shall apply:	shall apply:	
(i) by way of derogation from	(i) by way of derogation from	(i) by way of derogation from	
Article 6a of this Regulation, the data	Article 6a of this Regulation, the data	Article 6a of this Regulation, the data	
referred to in Articles 14, 15, 16, 17	referred to in Articles 14, 15, 16, 17	referred to in Articles 14, 15, 16, 17	
and 18 of [Regulation establishing	and 18 of [Regulation establishing	and 18 of [Regulation establishing	
the Entry/Exit System (EES)] shall	the Entry/Exit System (EES)] shall	the Entry/Exit System (EES)] shall	
be temporally stored in the National	be temporally stored in the National	be [] temporarily stored in the	
Uniform Interface as defined in	Uniform Interface as defined in	National Uniform Interface as	
Article 6 of [Regulation establishing	Article 6 of [Regulation establishing	defined in Article 6 of [Regulation	
the Entry/Exit System (EES)]. If this	the Entry/Exit System (EES)]. If this	establishing the Entry/Exit System	
is not possible, the data shall be	is not possible, the data shall be	(EES)]. If this is not possible, the	
temporarily stored locally. In both	temporarily stored locally. In both	data shall be temporarily stored	
situations, the data shall be entered	situations, the data shall be entered	locally. In [] <u>all cases</u> , the data	
into the Central System of the EES as	into the Central System of the EES as	shall be entered into the Central	



soon as the technical impossibility or	soon as the technical impossibility or/	System of the EES as soon as the	
failure has been remedied. Member	failure has been remedied. Member	technical impossibility or failure has	
States shall take the appropriate	States shall take the appropriate /	been remedied. Member States shall	
measures and deploy the required	measures and deploy the required	take the appropriate measures and	
infrastructure, equipment and	infrastructure, equipment and /	deploy the required infrastructure,	
resources in order to ensure that such	resources in order to ensure that such	equipment and resources in order to	
temporary local storage can be	temporary local storage can be	ensure that such temporary local	
carried out at any time and for any of	carried out at any time and for any of	storage can be carried out at any time	
their border crossing points;	their border crossing points;	and for any of their border crossing	
		points;	
		In the exceptional situation where	
		there is no technical possibility to	
		register in the Central System, in the	
		National Uniform Interface and local	
		electronic temporary storage is	
		technically impossible, Member	
		States shall store manually the data	
		referred to in articles 14, 15, 16, 17	
		and 18 with the exemption of	
		biometric data and in addition affix	
		an entry or exit stamp in the travel	
		document of the third country	
		national. These manually stored data	
		shall be entered in the system as soon	
		as possible.	
(ii) by way of derogation from	(ii) by way of derogation from	(ii) by way of derogation from	
Articles 8(3)(a)(iii) and 8(3)(g)(iv)	Articles 8(3)(a)(iii) and 8(3)(g)(iv)	Articles 8(3)(a)(iii) and 8(3)(g)(iv)	
for nationals of third countries	for nationals of third countries	for nationals of third countries	
holding a visa [or a touring visa]	holding a visa [or a touring visa]	holding a visa [or a touring visa]	
referred to in Article $6(1)(b)$ , when	referred to in Article $6(1)(b)$ , when	referred to in Article $6(1)(b)$ , when	
technically possible, the verification	technically possible, the verification	technically possible, the verification	
of the identity of the holder of the	of the identity of the holder of the	of the identity of the holder of the	



visa shall be carried out by	visa shall be carried out by	visa shall be carried out by	
consulting directly the VIS in	consulting directly the VIS in	consulting directly the VIS in	
accordance with Article 18 of	accordance with Article 18 of	accordance with Article 18 of	
Regulation (EC) No 767/2008."	Regulation (EC) No 767/2008."	Regulation (EC) No 767/2008."	
(10) In Article 10, the following	(10) In Article 10, the following	(10) In Article 10, the following	
paragraph 3a is added:	paragraph 3a is added:	paragraph <u>s</u> 3a <u>and 3aa are</u> []	
		added:	
"3a. Where Member States decide to	"3a. Where Member States decide to	"3a. Where Member States decide	
use automated border control	use automated border control	to use automated border control	
systems, e-gates or self-service	systems, e-gates or self-service	systems, e-gates and/or self-service	
systems, or both, they shall use the	systems, or both, they shall use the	systems, [] they shall use the signs	
signs provided for in part D of Annex	signs provided for in part D of Annex	provided for in part D of Annex III to	
III to identify the respective lanes."	III to identify the respective lanes."	identify the respective lanes."	
	(10a) In Article 10, the following		
	paragraph 3aa is added:		
	<i>3aa. Where Member States decide</i>	3aa Where Member States decide	
	to establish a national facilitation	to establish a national facilitation	
	programme in accordance with	programme in accordance with	
	Article 8e, they may decide to use	Article 8e, they may decide to use	
	specific lanes for third-country	specific lanes for the third country	
	nationals who benefit from such a	nationals benefiting from such	
	national facilitation programme."	national facilitation programme.	
(11) Article 11 is replaced by the	(11) Article 11 is replaced by the	(11) Article 11 is replaced by the	
following:	following:	following:	
"Article 11	"Article 11	"Article 11	
Stamping of travel documents	Stamping of travel documents	Stamping of travel documents	
1. Where provided expressly by	1. Where provided expressly by	1. Where provided expressly by	
its national legislation, a Member	its national legislation, a Member	its national legislation, a Member	
State may stamp on entry and exit the	State may stamp on entry and exit the	State may stamp on entry and exit the	
travel document of third country	travel document of third country	travel document of third country	
nationals holding a residence permit	nationals holding a residence permit	nationals holding a residence permit	
issued by that Member State.	issued by that Member State.	or long-stay visa issued by that	



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



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



		• 1 • 4 1 4 •	
stay visa, that he or she has respected	stay visa, that he or she has respected	residence permit or long stay visa,	
the conditions relating to the duration	the conditions relating to the duration	that he or she has respected the	
of a short stay.	of a short stay.	conditions relating to the duration of	
In such situations the competent	In such situations the competent	a short stay.	
authorities shall apply the procedure	authorities shall apply the procedure	In such [] <u>a case the competent</u>	
laid down in Article 18 of	laid down in Article 18 of	authorities shall []create an	
[Regulation establishing the	[Regulation establishing the	individual file if necessary or	
Entry/Exit System (EES)].	Entry/Exit System (EES)].	indicate in the Entry/Exit System the	
		date on which, and the place where,	
		he or she crossed the external border	
		of one of the Member States in	
		accordance with Article 18 of	
		[Regulation establishing the	
		Entry/Exit System (EES)];	
4. If the presumption referred to	4. If the presumption referred to /	4. Should the presumption	
in paragraph 1 is not rebutted, the	in paragraph 1 is not rebutted, the	referred to in paragraph 1 not be	
third country national may be	third country national may be	rebutted, the third-country national	
expelled by the competent authorities	expelled by the competent authorities	may be X returned in accordance	
from the territory of the Member	from the territory of the Member	with Directive 2008/115/EC <sup>15</sup> and	
States concerned.	States concerned.	with national law respecting that	
A third country national who	A third country national who	Directive. []	
establishes that he or she enjoys the	establishes that he or she enjoys the	A third country national []	
		•	
right of free movement under Union	right of free movement under Union	enjoy <u>ing</u> the right of free movement	
law may only be expelled by the	law may only be expelled by the	under Union law may only be []	
competent border and immigration	competent border and immigration	returned [] in accordance with	
authorities of the territory of the	authorities of the territory of the	Directive 2004/38/EC."	
Member State concerned in	Member State concerned in		
accordance with Directive	accordance with Directive		
2004/38/EC."	/2004/38/EC."		

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



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



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



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



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



(15) Annexes III, IV and V are	(15) Annexes III, IV and V are	(15) Annexes III, IV, []V and VII	
amended in accordance with the	amended in accordance with the	are amended in accordance with the	
Annex to this Regulation	Annex to this Regulation	Annex to this Regulation	
	(15a) In Annex VII, point 1 is		
	replaced by the following:		
	1. Heads of State <i>and heads of</i>		
	government		
	By way of derogation from Article 6		
	and Articles 8 to 14, Heads of State,		
	<i>heads of government</i> and the		
	members of their delegation		
	<i>delegations</i> , whose arrival and		
	departure have been officially		
	announced through diplomatic		
	channels to the border guards, may		
	not be subject to border checks.		
(16) Annex VIII is deleted.	(16) Annex VIII is deleted.	(16) Annex VIII is deleted.	
		(17) <u>Annex IX is added.</u>	
Article 2	Article 2	Article 2	
This Regulation shall enter into force	This Regulation shall enter into force	<u>1.</u> This Regulation shall enter into	
on the twentieth day following that	on the twentieth day following that	force on the twentieth day following	
of its publication.	of its publication.	that of its publication.	
It shall apply from the date on which	It shall apply from the date on which	<u>2.</u> It shall apply from the date on	
the EES is to start operations, as	the EES is to start operations, as	which the EES is to start operations,	
determined by the Commission in	determined by the Commission in	as determined by the Commission in	
accordance with Article 60 of	accordance with Article 60 of	accordance with Article 60 of	
[Regulation N° XXX of the	[Regulation N° XXX of the	[Regulation (EU) $N^{\circ}$ XXX of the	
European Parliament and of the	European Parliament and of the	European Parliament and of the	
Council establishing the Entry/Exit	Council establishing the Entry/Exit	Council establishing the Entry/Exit	
System (EES) to register entry and	System (EES) to register entry and	System (EES) to register entry and	
exit data of third country nationals	exit data of third country nationals	exit data and refusal of entry data of	



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



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



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

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

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



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



		the passport, cancelled by a cross in indelible black ink, and write	
		,	
		opposite it on the right-hand side,	
		also in indelible ink, the letter(s)	
		corresponding to the reason(s) for	
		refusing entry, the list of which is	
		given on the standard form for	
		refusing entry shown in Part B of	
		Annex V."	
(b) point 1a is added:	(b) point 1a is added:	(b) point 1a is added:	
"The specifications of those stamps	"The specifications of those stamps	"The specifications of those stamps	
are laid down in the Schengen	are laid down in the Schengen	are laid down in the Schengen	
<b>Executive Committee Decision</b>	Executive Committee Decision	Executive Committee Decision	
SCH/COM-EX (94) 16 rev and	SCH/COM-EX (94) 16 rev and	SCH/COM-EX (94) 16 rev and	
SCH/Gem-Handb (93) 15	SCH/Gem-Handb (93) 15	SCH/Gem-Handb (93) 15	
(CONFIDENTIAL)."	(CONFIDENTIAL)."	(CONFIDENTIAL)."	
(c) point 3 is replaced by the	(c) point 3 is <del>replaced by the</del>	(c) point 3 is replaced by the	
following:	following: deleted.	following:	
"3. In case of refusal of entry of a	"3. In case of refusal of entry of a	"3. In case of refusal of entry of a	
third country national subject to the	third country national subject to the	third country national subject to the	
visa obligation, the stamp shall, as a	visa obligation, the stamp shall, as a	visa obligation, the stamp shall, as a	
general rule, be affixed on the page	general rule, be affixed on the page	general rule, be affixed on the page	
facing the one on which the visa is	facing the one on which the visa is	facing the one on which the visa is	
affixed.	affixed.	affixed.	
If that page cannot be used, the	If that page cannot be used, the	If that page cannot be used, the	
stamp shall be entered on the	stamp shall be entered on the	stamp shall be entered on the	
following page. The machine	following page. The machine	following page. The machine	
readable zone shall not be stamped."	readable zone shall not be stamped."	readable zone shall not be stamped."	
3. Annex V part A is amended as	3. Annex V part A is amended as	3. Annex V part A is amended as	
follows:	follows:	follows:	
(a) point 1(b) is replaced by the	(a) point 1(b) is replaced by the	(a) point 1(b) is replaced by the	
following:	following:	following:	

GK/cr LIMITE

95 EN

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



refusing entry shown in Part B of this Annex. In addition, for these categories of persons, the border guard shall record every refusal of	refusing entry shown in Part B of this Annex. In addition, for these categories of persons, the border guard shall record every refusal of	refusing entry shown in Part B of this Annex. In addition, for these categories of persons, the border guard shall record every refusal of	
entry in a register or on a list stating	entry in a register or on a list stating	entry in a register or on a list stating	
the identity and nationality of the	the identity and nationality of the	the identity and nationality of the	
third country national concerned, the	third country national concerned, the	third country national concerned, the	
references of the document	references of the document	references of the document	
authorising the third country national	authorising the third country national	authorising the third country national	
to cross the border and the reason	to cross the border and the reason	to cross the border and the reason	
for, and date of, refusal of entry;"	for, and date of, refusal of entry;"	for, and date of, refusal of entry;"	
(c) point 1(e) is added:	(c) point 1(e) is added:	(c) point 1(e) is added:	
"(e) The practical arrangements for	"(e) The practical arrangements for	"(e) The practical arrangements for	
stamping are set out in Annex IV."	stamping are set out in Annex IV."	stamping are set out in Annex IV."	
	<i>3a.</i> In Annex V part B, the		
	following is added under the section		
	entitled "comments"::		
	"The person concerned is hereby		
	informed that her/his personal data		
	and information on this refusal of		
	entry are entered into the Entry/Exit		
	System in accordance with Article		
	16 of [Regulation establishing the		
	Entry/Exit System (EES)].		
	According to Article 46 of		
	[Regulation establishing the		
	Entry/Exit System (EES)] the		
	person concerned has the right to		
	obtain the data relating to her/him		
	recorded in the EES and may		
	request that data relating to her/him		
	which are inaccurate be rectified		



and that data recorded unlawfully		
be erased."		
	4. In Annex V, part B, in the	
	Standard form for refusal of entry at	
	the border, is amended as follows:	
	(J) has refused to provide the	
	biometric data, if required	
	□ for the creation of the individual	
	file in the Entry/Exit system	
	□ to carry out the border check.	
	5. <u>Annex VII is amended as</u>	
	<u>follows:</u>	
	point 1 is replaced by the following:	
	By way of derogation from Article 6	
	and Articles 8 to 14, Heads of State,	
	heads of government and members of	
	national government with	
	accompanying spouses, sovereigns	
	and other senior members of a royal	
	family and the members of their	
	delegation, whose arrival and	
	departure have been officially	
	announced through diplomatic	
	channels to the border guards, may	
	not be subject to border checks.	

6. <u>The following Annex IX is</u>
added:
"Annex IX
Procedures for border checks
applicable to the Member States not
operating the EES pending their
connection to the EES
By derogation to Article 2(2) of
Regulation XXXX/XXXX amending
Regulation (EU) 2016/399 as regards
the use of the Entry/Exit System,
during the transitional period
pending their connection to the EES
in accordance with Article 60(1b) of
[Regulation (EU) $N^{\circ}$ XXX of the
European Parliament and of the
Council establishing an Entry/Exit
System (EES) to register entry and
exit data and the refusal of entry data
of third country nationals crossing
the external borders of the Member
States of the European Union and
determining the conditions for access
to the EES for law enforcement
purposes], for checks on borders
Member States not operating the EES
shall not apply procedures set out in
Articles 6 to 14 of this Regulation,
but shall apply instead the procedures
set out in this Annex.

9468/17		GK/cr	99
ANNEX	DG D 1 A	LIMITE	EN

<u>Article 6</u>
[reproduce the whole text in its
version from before the entry into
force of this Regulation]
Article 7
[reproduce the whole text in its
version from before the entry into
force of this Regulation]
Article 8
[reproduce the whole text in its
version from before the entry into
force of this Regulation]
Article 8a
[reproduce the whole text of new
Article 8a as introduced in this
Regulation]
Article 8b
[reproduce the whole text of new
Article 8b as introduced in this
Regulation]
Article 9
[reproduce the whole text in its
version from before the entry into
force of this Regulation]
Article 10
[reproduce the whole text in its
version from before the entry into
force of this Regulation, plus new
paragraph 3a as introduced in this
Regulation]



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	Article 11
	[reproduce the whole text in its
	version from before the entry into
	force of this Regulation]
	Article 12
	[reproduce the whole text in its
	version from before the entry into
	force of this Regulation]
	Article 13
	[reproduce the whole text in its
	version from before the entry into
	force of this Regulation]
	Article 14
	[reproduce the whole text in its
	version from before the entry into
	force of this Regulation]"
	Annex III
	[reproduce the whole text in its
	version from before the entry into
	force of this Regulation, plus new
	Part D1 as introduced in this
	Regulation]"
	Annex IV
	[reproduce the whole text in its
	version from before the entry into
	force of this Regulation]"
	Annex V
	[reproduce the whole text in its
	version from before the entry into
	force of this Regulation]"



Annex VII [reproduce the whole text in its version from before the entry into	
force of this Regulation]"	
Annex XII	
[reproduce the whole text in its	
version from before the entry into	
force of this Regulation]"	

