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NOTE

From: Presidency
To: 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.

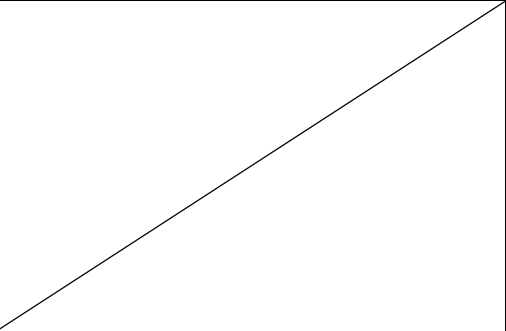
4-column table on the **Regulation of the European Parliament and of the Council amending Regulation (EU) No 2016/399 as regards the use of the Entry/Exit System** which comprises the Commission proposal, the mandate for negotiations as voted in the LIBE Committee of the EP on 27/02 and the Coreper mandate 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 AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 77(2)(b) thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, Having regard to the opinion of the European Economic and Social Committee, Having regard to the opinion of the Committee of the Regions, Acting in accordance with the ordinary legislative procedure, Whereas:	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 77(2)(b) thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, Having regard to the opinion of the European Economic and Social Committee, Having regard to the opinion of the Committee of the Regions, Acting in accordance with the ordinary legislative procedure, Whereas:	Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 77(2)(b) thereof, Having regard to the proposal from the European Commission, After transmission of the draft legislative act to the national parliaments, Having regard to the opinion of the European Economic and Social Committee, Having regard to the opinion of the Committee of the Regions, Acting in accordance with the ordinary legislative procedure, Whereas:	

<p>(1) 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)¹ lays down the conditions, criteria and detailed rules for the crossing of the external borders of the Member States.</p>	<p>(1) 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)¹ lays down the conditions, criteria and detailed rules for the crossing of the external borders of the Member States.</p>	<p>(1) 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)¹ lays down the conditions, criteria and detailed rules for the crossing of the external borders of the Member States.</p>	
<p>(2) [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]² aims at creating a centralised system for the registration of entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the Union for a short stay [or for a stay on the basis of a touring visa].</p>	<p>(2) [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]² aims at creating a centralised system for the registration of entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the Union for a short stay [or for a stay on the basis of a touring visa].</p>	<p>(2) [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]² aims at creating a centralised system for the registration of entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the Union for a short stay [...].</p>	

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

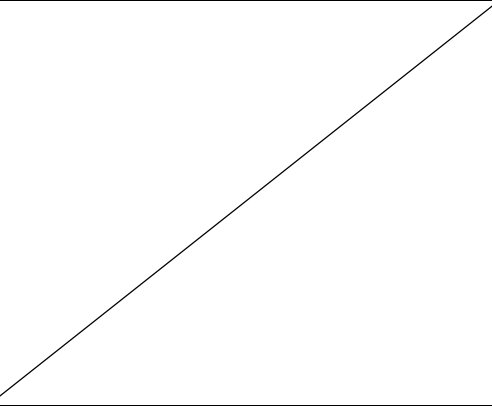
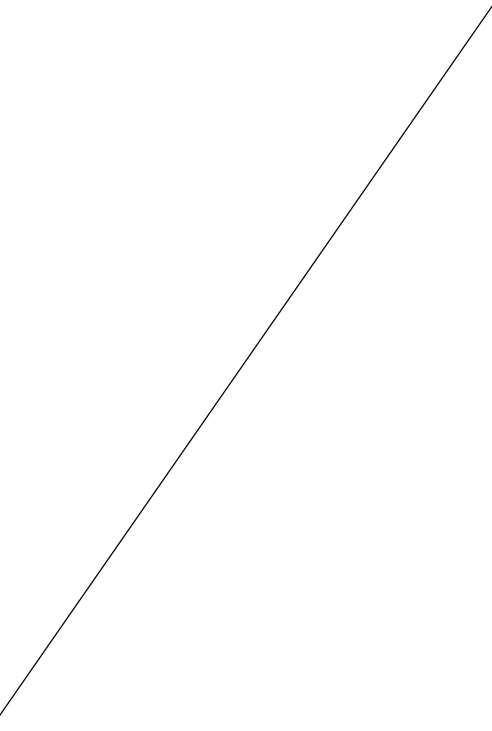
² OJ L ...

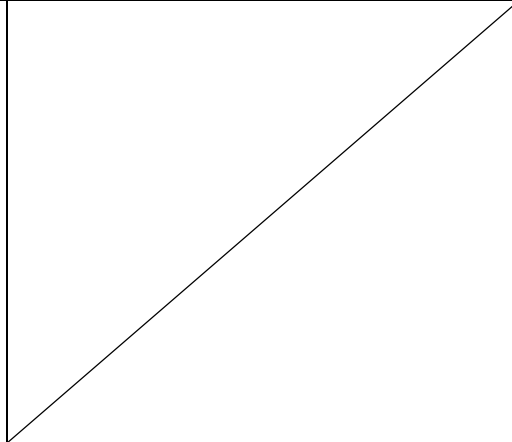
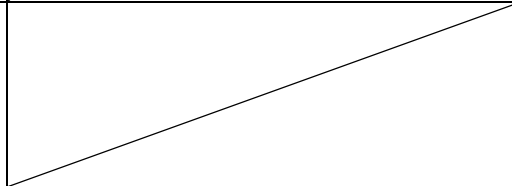
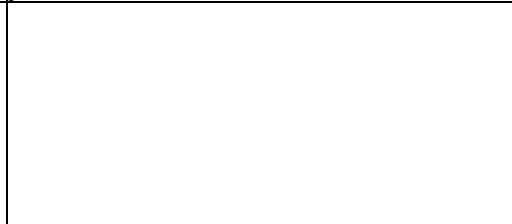
<p>(3) In order to carry out checks on third country nationals pursuant to Regulation (EU) 2016/399, which include the verification of the identity and/ or the identification of the third country national as well as the verification that the third country national has not exceeded the maximum duration of authorised stay in the territory of the Member States, border guards should use all the information available, including data from the EES. The data stored in that system should also be used to verify that third country nationals holding a single or double entry visa have respected the maximum number of authorised entries.</p>	<p>(3) In order to carry out checks on third country nationals pursuant to Regulation (EU) 2016/399, which include the verification of the identity and/ or the identification of the third country national as well as the verification that the third country national has not exceeded the maximum duration of authorised stay in the territory of the Member States, border guards should use all the information available, including data from the EES. The data stored in that system should also be used to verify that third country nationals holding a single or double entry visa have respected the maximum number of authorised entries.</p>	<p>(3) In order to carry out checks on third country nationals pursuant to Regulation (EU) 2016/399, which include the verification of the identity and/ or the identification of the third country national as well as the verification that the third country national has not exceeded the maximum duration of authorised stay in the territory of the Member States, border guards should use all the information available, including data from the EES, <u>where required</u>. The data stored in that system should also be used to verify that third country nationals holding a single or double entry visa have respected the maximum number of authorised entries.</p>	
		<p><u>(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.</u></p>	

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

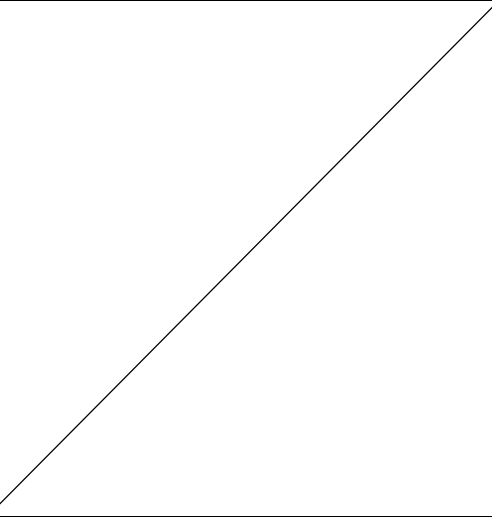
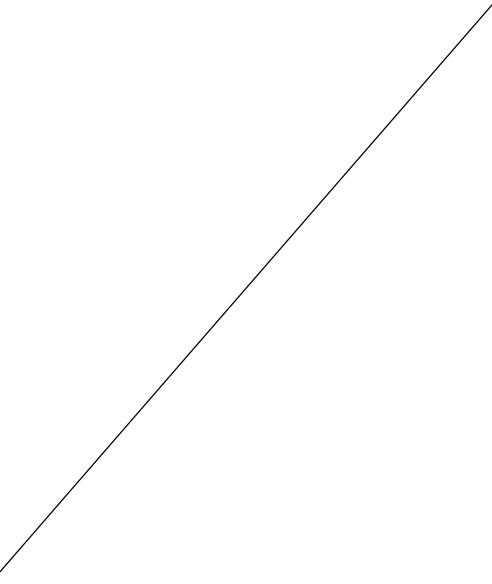
		<p><u>(5a) The above-mentioned adaptations of procedures should become effective in the Member States operating the EES on the date of entry into operation of the EES determined in accordance with the EES Regulation (EU) N° XXX.</u></p>	
		<p><u>(5b) By derogation to those adaptations, during the transitional 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) 2016/399.</u></p>	

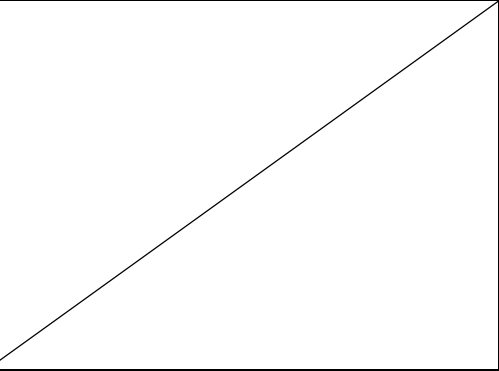
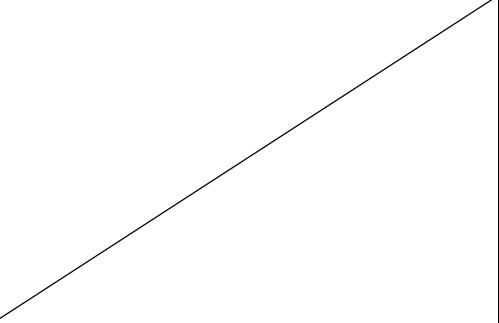
<p>(6) During a period of six months after the EES has started operations, border guards should take into account the stays in the territories of the Member States during the six months preceding the entry or the exit by checking the stamps in the travel documents in addition to the entry/exit data recorded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

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

<p>(9) Member States should also be able to establish national facilitation programmes on a voluntary basis to allow pre-vetted third country nationals to benefit at entry from derogations to the thorough checks. When using such national facilitation programmes, it should be ensured that they are established in a harmonised way and that the appropriate level of security is guaranteed.</p>	<p>(9) Member States should also be able to establish national facilitation programmes on a voluntary basis to allow pre-vetted third country nationals to benefit at entry from derogations to the thorough checks. When using such national facilitation programmes, it should be ensured that they are established in a harmonised way and that the appropriate level of security is guaranteed.</p>	<p>(9) Member States should also be able to establish national facilitation programmes on a voluntary basis to allow pre-vetted third country nationals to benefit at entry from derogations to the thorough checks. When using such national facilitation programmes, it should be ensured that they are established in a harmonised way and that the appropriate level of security is guaranteed.</p>	
<p>(10) This Regulation is without prejudice to the application of Directive 2004/38/EC of the European Parliament and of the Council³.</p>	<p>(10) This Regulation is without prejudice to the application of Directive 2004/38/EC of the European Parliament and of the Council³.</p>	<p>(10) This Regulation is without prejudice to the application of Directive 2004/38/EC of the European Parliament and of the Council³.</p>	
		<p><u>(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.</u></p>	

³ 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).

<p>(11) Since the objective of this Regulation, namely to provide for amendments to the existing rules of Regulation (EU) 2016/399 can only be achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as also set out in that Article, this Regulation does not go beyond what is necessary in order to achieve this objective.</p>	<p>(11) Since the objective of this Regulation, namely to provide for amendments to the existing rules of Regulation (EU) 2016/399 can only be achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as also set out in that Article, this Regulation does not go beyond what is necessary in order to achieve this objective.</p>	<p>(11) Since the objective of this Regulation, namely to provide for amendments to the existing rules of Regulation (EU) 2016/399 can only be achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as also set out in that Article, this Regulation does not go beyond what is necessary in order to achieve this objective.</p>	
<p>(12) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i>, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.</p>	<p>(12) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i>, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.</p>	<p>(12) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen <i>acquis</i>, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.</p>	

<p>(13) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC⁴; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p>	<p>(13) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC⁴; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p>	<p>(13) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC⁴; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p>	
<p>(14) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC⁵; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p>	<p>(14) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC⁵; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p>	<p>(14) This Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> in which Ireland does not take part, in accordance with Council Decision 2002/192/EC⁵; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.</p>	

⁴ Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

⁵ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

<p>(15) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen <i>acquis</i>⁶ which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC⁷.</p>	<p>(15) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen <i>acquis</i>⁶ which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC⁷.</p>	<p>(15) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latters' association with the implementation, application and development of the Schengen <i>acquis</i>⁶ which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC⁷.</p>	
<p>(16) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>⁸ which fall within the area referred to</p>	<p>(16) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>⁸ which fall within the area referred to</p>	<p>(16) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>⁸ which fall within the area referred to</p>	

⁶ OJ L 176, 10.7.1999, p. 36.

⁷ 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).

⁸ OJ L 53, 27.2.2008, p. 52.

<p>in Article 1, point A of Council Decision 1999/437/EC⁹ read in conjunction with Article 3 of Council Decision 2008/146/EC¹⁰.</p>	<p>in Article 1, point A of Council Decision 1999/437/EC⁹ read in conjunction with Article 3 of Council Decision 2008/146/EC¹⁰.</p>	<p>in Article 1, point A of Council Decision 1999/437/EC⁹ read in conjunction with Article 3 of Council Decision 2008/146/EC¹⁰.</p>	
<p>(17) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>¹¹ which fall within the area</p>	<p>(17) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>¹¹ which fall within the area</p>	<p>(17) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen <i>acquis</i> within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i>¹¹ which fall within the area</p>	

⁹ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

¹⁰ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

¹¹ OJ L 160, 18.6.2011, p. 21.

referred to in Article 1, point A, of Council Decision 1999/437/EC ¹² read in conjunction with Article 3 of Council Decision 2011/350/EU ¹³ .	referred to in Article 1, point A, of Council Decision 1999/437/EC¹² read in conjunction with Article 3 of Council Decision 2011/350/EU¹³	referred to in Article 1, point A, of Council Decision 1999/437/EC ¹² read in conjunction with Article 3 of Council Decision 2011/350/EU ¹³ .	
		<u>(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 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.]</u>	
(18) Regulation (EU) 2016/399 should therefore be amended accordingly,	(18) Regulation (EU) 2016/399 should therefore be amended accordingly	(18) Regulation (EU) 2016/399 should therefore be amended accordingly,	

¹² Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31)

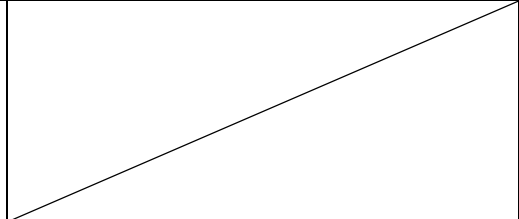
¹³ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	
<i>Article 1</i>	<i>Article 1</i>	<i>Article 1</i>	
Regulation (EU) 2016/399 is amended as follows:	Regulation (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 are added:	(1) In Article 2, the following points 22, 23, 24, and 25 and 25a are added:	(1) In Article 2, the following points 22, 23, 24 and 25 are added:	Provisionally agreed: (1) In Article 2, the following points 22, 23, 24, 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;	"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;	Provisionally agreed: 22. 'Entry/Exit System (EES)' means the system established by [Regulation (EU) 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 applicable to a person;	23. 'Self-service system' means an automated system which performs all or some of the border checks that are applicable to a person;	23. 'Self-service system' means an automated system which performs all or some of the border checks that are applicable to a person <u>and which may be used for pre-enrolling data in EES;</u>	Provisionally agreed: 23. 'Self-service system' means an automated system which performs all or some of the border checks that are applicable to a person <u>and which may be used for pre-enrolling data in EES;</u>

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

		(ii) <u>carrying out border checks in accordance with Article 8(3)(a)(i) and (g)(i) of this Regulation, Article 21(2) and (4) of [Regulation establishing the Entry/Exit System (EES)] and, where applicable, Article 18 of Regulation (EC) No 767/2008.</u>	
(2) The following Article 6a is inserted:	(2) The following Article 6a is inserted:	(2) The following Article 6a is inserted:	
"Article 6a <i>Third country nationals for which data shall be entered into the EES</i>	"Article 6a <i>Third country nationals for which data shall be entered into the EES</i>	"Article 6a <i>Third country nationals for [...] whom data shall be entered into the EES</i>	Provisionally agreed: Article 6a <i>Third country nationals for whom data shall be entered into the EES</i>
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)]:	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];	(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 Directive;	(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 Directive;	(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 Directive;	

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

<p>(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;</p>	<p>(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;</p>	<p>(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;</p>	
<p>(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;</p>	<p>(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;</p>	<p>(b) third country nationals who are members of the family of nationals of third countries enjoying the right of free movement under Union law <u>or enjoying the right of 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</u> who hold a residence card pursuant to Directive 2004/38/EC <u>or a residence document pursuant to the agreement as applicable.</u></p>	<p><i>COM drafting suggestion aligned with ETIAS</i> (c) third country nationals who are members of the family of a nationals of a third countries enjoying the right of free movement <u>under Union law</u> 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.</p>
		<p><u>(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;</u></p>	<p><i>Provisionally agreed:</i> 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;</p>
		<p><u>(b2) holders of long-stay visas;</u></p>	<p><i>Provisionally agreed:</i> <u>b2) holders of long-stay visas;</u></p>

		(b3) <u>third country nationals exercising mobility in accordance with Directive 2014/66/EU^{13a} or Directive (EU) 2016/801^{13b} as those Directives set up specific intra-EU mobility schemes;</u>	Provisionally agreed: (b3) <u>third country nationals exercising mobility in accordance with Directive 2014/66/EU^{13a} or Directive (EU) 2016/801^{13b} as those Directives set up specific intra-EU mobility schemes;</u>
(c) nationals of Andorra, Monaco and San Marino;	(c) nationals of Andorra, Monaco and San Marino;	(c) nationals of Andorra, Monaco, and San Marino <u>and holders of a passport issued by the Vatican City State;</u>	Provisionally agreed: (c) nationals of Andorra, Monaco, and San Marino <u>and holders of a passport issued by the Vatican City 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) Heads of State, heads of government and the members of their delegations in accordance with point 1 of Annex VII;	(i) heads of State, <u>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;</u>	<i>Commission to propose drafting suggestion (also for Annex VII).</i>

^{13a} Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer, OJ L 157, 27.5.2014, p. 1.

^{13b} 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 pairing (recast), OJ L 132, 21.5.2016, p. 21.

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

(f) persons who present a valid local border traffic permit for their border crossing in accordance with Regulation (EC) No 1931/2006 of the European Parliament and of the Council.	(f) persons who present a valid local border traffic permit for their border crossing in accordance with Regulation (EC) No 1931/2006 of the European Parliament and of the Council.	(f) persons who present a valid local border traffic permit for their border crossing in accordance with Regulation (EC) No 1931/2006 of the European Parliament and of the Council;	Provisionally agreed: f) persons who present a valid local border traffic permit for their border crossing in accordance with Regulation (EC) No 1931/2006 of the European Parliament and of the Council;
		<u>(g) crews of passenger and goods trains on international connections;</u>	Provisionally agreed (g) crews of passenger and goods trains on international connections;
		<u>(h) persons who present for their border crossing</u>	Provisionally agreed (h) persons who present for their border crossing
		<u>(i) a valid Facilitated Rail Transit Document issued in accordance with Regulation (EC) No 693/2003 or</u>	Provisionally agreed (i) a valid Facilitated Rail Transit Document issued in accordance with Regulation (EC) No 693/2003 or
		<u>(ii) a valid Facilitated Transit Document issued in accordance with Regulation (EC) No 693/2003 provided that they perform their transit by train and they do not disembark in the territory of a Member State.</u>	Provisionally agreed (ii) a valid Facilitated Transit Document issued in accordance with Regulation (EC) No 693/2003 provided that they perform their transit by train and they do not disembark in the territory of a Member State.
The data of the family members referred to in points (a) and (b) shall not be entered into the EES, even if they are not accompanying or joining the Union citizen or a third country national enjoying the right of free movement."	The data of the family members referred to in points (a) and (b) shall not be entered into the EES, even if they are not accompanying or joining the Union citizen or a third country national enjoying the right of free movement."	The data of the family members referred to in points (a) and (b) shall not be entered into the EES, even if they are not accompanying or joining the Union citizen or a third country national enjoying the right of free 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.				
		<i>in paragraph 2, first subparagraph, the following sentence is added:</i>	<i>in paragraph 2, first subparagraph, the following sentence is added:</i>	<i>in paragraph 2, first subparagraph, the following sentence is added:</i>	
	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 <i>For persons whose border crossing is subject to a registration in the EES, if</i> 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 enjoying the right of free movement under Union law is not considered to be a threat to the public policy, internal security, public health or international relations of any of the Member States, including by consulting the SIS and other relevant Union databases. This is without prejudice to the consultation of national and Interpol databases				
	Where there are doubts as to the authenticity of the travel document or the identity of its holder, at least one of the biometric identifiers integrated into the passports and travel documents issued in accordance with Regulation (EC) No 2252/2004 shall be verified. Where possible, such verification shall also be carried out in relation to travel documents not covered by that Regulation.				
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				

	<p>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.</p>				
2b.	<p>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</p>				

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

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

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

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.	

	<p>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;</p>	<p>This verification includes a thorough scrutiny of the travel document for signs of falsification and counterfeiting. Except for third country nationals whose entry is subject to a registration in the EES, if the travel document contains a facial image recorded in the electronic storage medium (chip) and if the facial image recorded in the chip can be legally and technically accessed, this verification shall include the verification of the facial image recorded in the chip, by comparing electronically this image with the live facial image of the concerned third country national.</p>	<p>This verification includes a thorough scrutiny of the travel document for signs of falsification and counterfeiting. Except for third country nationals whose entry is subject to a registration in the EES, if the travel document contains a facial image recorded in the electronic storage medium (chip) and if the facial image recorded in the chip can be legally and technically accessed, this verification shall include the verification of the facial image recorded in the chip, by comparing electronically this image with the live facial image of the concerned third country national.</p>	<p>This verification includes a thorough scrutiny of the travel document for signs of falsification and counterfeiting. [...] If the travel document contains a facial image recorded in the electronic storage medium (chip) and if the facial image recorded in the chip can be [...] technically accessed, this verification shall include the verification of the facial image recorded in the chip, by comparing electronically this image with the live facial image of the concerned third country national, <u>except for third country nationals who have an individual file already registered in the EES. If technically and legally possible, this verification may be done by verifying the live fingerprints with the fingerprints recorded in the chip.</u></p>	
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3(a)(ii)	<p>verification that the travel document is accompanied, where applicable, by the requisite visa or residence permit;</p>	<p>verification that the travel document is accompanied, where applicable, by the requisite visa or residence permit. If the residence permit contains an electronic storage medium (chip) the authenticity of the chip data shall be confirmed using the complete valid certificate chain, unless this is impossible, for technical reasons. The thorough checks on entry shall also comprise a systematic verification of the validity of the residence permit or long stay visa by consulting, in the SIS and in other relevant databases, information exclusively on stolen, misappropriated, lost and invalidated documents</p>	<p>verification that the travel document is accompanied, where applicable, by the requisite visa or residence permit. If the residence permit contains an electronic storage medium (chip) the authenticity of the chip data shall be confirmed using the complete valid certificate chain, unless this is impossible, for technical reasons. The thorough checks on entry shall also comprise a systematic verification of the validity of the residence permit or long stay visa by consulting, in the SIS and in other relevant databases, information exclusively on stolen, misappropriated, lost and invalidated documents.¹⁴</p>	<p>verification that the travel document is accompanied, where applicable, by the requisite visa, <u>[touring visa], long-stay visa</u> or residence permit. If the residence permit 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. The thorough checks on entry shall also comprise a systematic verification of the validity of the residence permit or long stay visa by consulting, in the SIS and in other relevant databases, information exclusively on stolen, misappropriated, lost and invalidated documents.</p>	
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3(a)(iii)	examination of the entry and exit stamps on the travel document of the third-country national concerned, in order to verify, by comparing the dates of entry and exit, that the person has not already exceeded the maximum duration of authorised stay in the territory of the Member States;	for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person and, where applicable, an identification shall be carried out in accordance with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)].	for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person and, where applicable, an identification shall be carried out in accordance with Article 21(4) of [Regulation establishing the Entry/Exit System (EES)].	persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification of the identity of the person <u>in accordance with Article 21(2) of [Regulation establishing the Entry/Exit System (EES)]</u> and, where applicable, an identification shall be carried out in accordance with Article 21 (4) of [Regulation establishing the Entry/Exit System (EES)]."	
3(a)(iia)		for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national has not already reached or exceeded the maximum duration of authorised stay in the territory of the Member States and, for third country nationals holding a single or double entry visa, verification that they have respected the number of the maximum authorised entries, by consulting the EES in accordance with	for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national has not already reached or exceeded the maximum duration of authorised stay in the territory of the Member States and, for third country nationals holding a single or double entry visa, verification that they have respected the number of the maximum authorised entries, by consulting the EES in accordance with	for persons whose entry or whose refusal of entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national has not already reached or exceeded the maximum duration of authorised stay in the territory of the Member States and, for third country nationals holding a single or double entry visa, verification that they have respected the number of the maximum authorised entries, by consulting the EES in accordance with Article 21	

		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 holds a visa referred to in Article 6(1)(b), the thorough checks on entry shall also comprise verification of the identity of the holder of the visa and of the authenticity of the visa, by consulting the Visa Information System (VIS) in accordance with Article 18 of Regulation (EC) No 767/2008;	if the third country national holds a visa [or a touring visa] referred to in Article 6(1)(b) the thorough checks on entry shall also comprise the verification of the authenticity, territorial and temporal validity and status of the visa and, if applicable, of the identity of the holder of the visa, by consulting the VIS in accordance with Article 18 of Regulation (EC) No 767/2008 of the European	if the third country national holds a visa [or a touring visa] referred to in Article 6(1)(b) the thorough checks on entry shall also comprise the verification of the authenticity, territorial and temporal validity and status of the visa and, if applicable, of the identity of the holder of the visa, by consulting the VIS in accordance with Article 18 of Regulation (EC) No 767/2008 of the European	if the third country national holds a visa [or a touring visa] referred to in Article 6(1)(b) the thorough checks on entry shall also comprise the verification of the authenticity, territorial and temporal validity and status of the visa [or a touring visa] and, if applicable, of the identity of the holder of the visa [or a touring visa], by consulting the VIS in accordance with Article 18 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.				

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

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

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

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 with Article 21(2) of [Regulation establishing the Entry/Exit System (EES)]</u> 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)		(v) for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national did not exceed the maximum duration of authorised stay in the territory of the Member States, by consulting the EES in accordance with Article 21 of [Regulation establishing the Entry/Exit System (EES)]	for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national did not exceed the maximum duration of authorised stay in the territory of the Member States, by consulting the EES in accordance with Article 21 of [Regulation establishing the Entry/Exit System (EES)]	for persons whose exit is subject to a registration in the EES pursuant to Article 6a of this Regulation, verification that the third country national did not exceed the maximum duration of authorised stay in the territory of the Member States, by consulting the EES in accordance with Article 21(3) of [Regulation establishing the Entry/Exit System (EES)]	

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 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.				
		<i>the following paragraph 9 is added</i>	<i>the following paragraph 9 is added</i>	<i>the following paragraph 9 is added</i>	
		The border guard shall inform the third country national of the maximum number of days of the authorised short stay, having regard to the results of the consultation of the EES which shall take into account, for third country nationals holding a visa, the number of entries and the length of the stay authorised by the visa referred to in Article 6(1)(b)	The border guard shall inform the third country national of the maximum number of days of the authorised short stay, having regard to the results of the consultation of the EES which shall take into account, for third country nationals holding a visa, the number of entries and the length of the stay authorised by the visa referred to in Article 6(1)(b)	[...] <u>Any third country national shall have the right to ask a border guard during border checks at entry about the maximum remaining number of days of his/her authorized stay, which shall take into account [...] the number of entries and the length of stay authorised by the visa [...] {or the touring visa}, and be provided with such information by the border guard on that occasion.</u>	

(4) The following Article 8a is inserted:	(4) The following Article 8a is inserted:	(4) The following Article 8a is inserted:	<i>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.</i>
"Article 8a <i>Use of automated border control systems for EU/EEA/CH citizens and for third country nationals who hold a residence card</i>	"Article 8a <i>Use of automated border control systems for EU/EEA/CH citizens and for third country nationals who hold a residence card</i>	"Article 8a <i>Use of automated border control systems for EU/EEA/CH citizens and for third country nationals who hold a residence card</i>	
1. The following categories of persons may be permitted to use automated border control systems if the conditions listed under paragraph 2 are met:	1. The following categories of persons may be permitted to use automated border control systems if the conditions listed under paragraph 2 are met:	1. The following categories of persons may be permitted to use automated border control systems if the conditions listed under paragraph 2 are met:	
(a) Union citizens within the meaning of Article 20(1) of the Treaty;	(a) Union citizens within the meaning of Article 20(1) of the Treaty;	(a) Union citizens within the meaning of Article 20(1) of the TFEU [...];	
(b) nationals of third countries who, under agreements between the Union and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens;	(b) nationals of third countries who, under agreements between the Union and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens;	(b) nationals of third countries who, under agreements between the Union and its Member States, on the one hand, and those third countries, on the other hand, enjoy rights of free movement equivalent to those of Union citizens;	

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

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

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

¹⁴ 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 further checks.	border guard who shall proceed with further checks.	person to a border guard who shall proceed with further checks.	
5. The person shall be referred to a border guard in the following situations:	5. The person shall be referred to a border guard in the following situations:	5. The person shall be referred to a border guard in the following situations:	
(a) when one of the conditions listed under paragraph 2 is not fulfilled;	(a) when one of the conditions listed under paragraph 2 is not fulfilled;	(a) when one of the conditions listed under paragraph 2 is not fulfilled;	
(b) when the results of the checks on entry or exit provided for under Article 8(2) question the identity of the person or when they reveal that the person represents a genuine, present and sufficiently serious threat to the internal security, public policy, international relations of the Member States or a threat to public health;	(b) when the results of the checks on entry or exit provided for under Article 8(2) question the identity of the person or when they reveal that the person represents a genuine, present and sufficiently serious threat to the internal security, public policy, international relations of the Member States or a threat to public health;	(b) when the results of the checks on entry or exit provided for under Article 8(2) question the identity of the person or when they reveal that the person represents a genuine, present and sufficiently serious threat to the internal security, public policy, international relations of the Member 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 4, the border guard supervising the border crossing may decide to refer persons using the automated border control system to a border guard based on other reasons	6. Without prejudice to paragraph 4, the border guard supervising the border crossing may decide to refer persons using the automated border control system to a border guard based on other reasons	6. Without prejudice to paragraph 4, the border guard supervising the border crossing may decide to refer persons using the automated border control system to a border guard based on other reasons.	
7. Automated border control systems shall be operated under the supervision of a border guard who shall be in charge of observing the users and detecting any inappropriate, fraudulent or abnormal use of the system."	7. Automated border control systems shall be operated under the supervision of a border guard who shall be in charge of observing the users and detecting any inappropriate, fraudulent or abnormal use of the system."	7. Automated border control systems shall be operated under the supervision of a border guard who shall be in charge of observing the users and detecting any inappropriate, fraudulent or abnormal use of the system."	

	<i>(4a) The following Article 8aa is inserted:</i>		<i>To revert back pending outcome of Article 8a.</i>
	<i>“Article 8aa</i>		
	<i>Standards for automated border control systems</i>		
	<i>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.</i>		
	<i>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.”</i>		
(5) The following Article 8b is inserted:	(5) The following Article 8b is inserted:	(5) The following Article 8b is inserted:	<i>The EP explained that they have 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/</i>

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

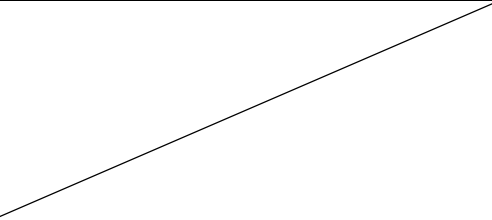
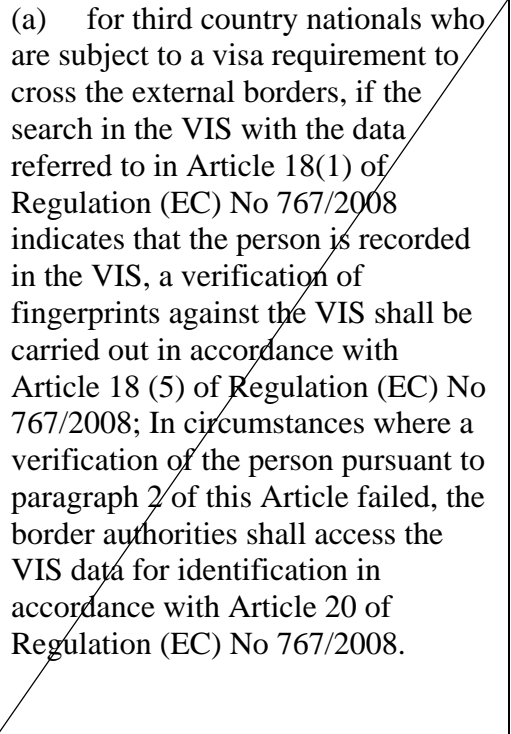
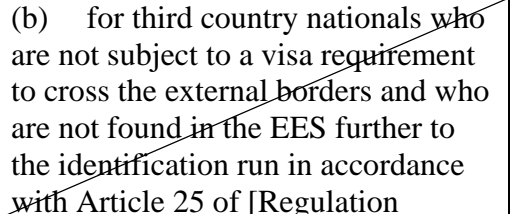
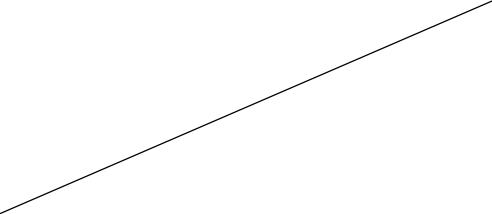
		<u>fingerprints with the fingerprints recorded the in the chip of the travel document;</u>	
(c) the residence permit presented for the border crossing shall contain an electronic storage medium (chip) and the authenticity of the chip data shall be confirmed using the complete valid certificate chain;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

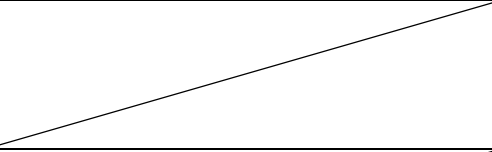
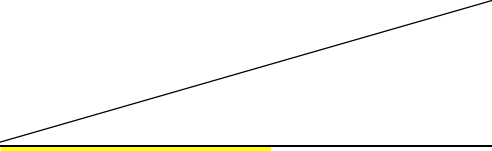
(a) on entry, third country nationals who hold a residence permit shall be subject to the border checks referred to in Article 8(2) and points (i),(ii), (iv) and (vi) of Article 8(3)(a) ;	(a) on entry, third country nationals who hold a residence permit shall be subject to the border checks referred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

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

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

		<u>fingerprints with the fingerprints recorded the in the chip of the travel document.</u>	<u>possible, this verification may be done by verifying the live fingerprints with the fingerprints recorded the in the chip of the travel document.]</u>
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)].	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)].	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:	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:	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)] [...]	<i>Provisionally agreed:</i> 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) [...]	<i>Deletion provisionally agreed</i>
(b) the verification of the third country national fails;	(b) the verification of the third country national fails;	(b) [...]	<i>Deletion provisionally agreed</i>
(c) there are doubts as to the identity of the third country national.	(c) there are doubts as to the identity of the third country national.	(c) [...]	<i>Deletion provisionally agreed</i>

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

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

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

<p>(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)].</p>	<p>(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)].</p>	<p>(iii[...]) when the decision to authorise or refuse entry has been taken, confirm the [...] <u>data referred to in point (a) of this paragraph</u> 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)].</p>	<p>Provisionally agreed: iii) when the decision to authorise or refuse entry has been taken, confirm the <u>data referred to in point (a) of this paragraph</u> 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)].</p>
<p>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)]</p>	<p>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)]</p>	<p>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 <u>referred in paragraph (4)(a) of this Article</u> [...] need to be updated. [...].</p>	<p><i>Pending agreement due to link with the passive access to VIS with regard to the Council deletion.</i></p>

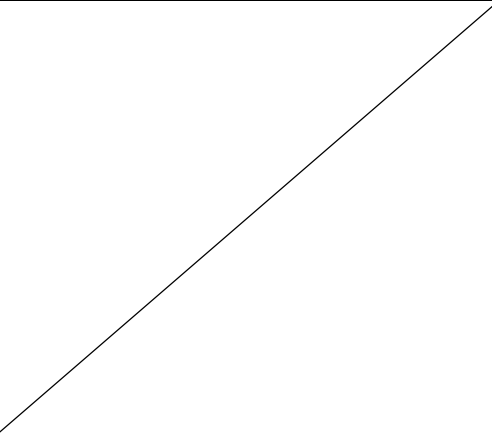
<p>6. Where it is verified pursuant to paragraph 5 that the person has a previous file registered in the EES but that his or her individual file needs to be updated, the following provisions shall apply:</p>	<p>6. Where it is verified pursuant to paragraph 5 that the person has a previous file registered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

(7) The following Article 8d is inserted:	(7) The following Article 8d is inserted:	(7) The following Article 8d is inserted:	
"Article 8d Use of self-service systems and/or e-gates for the border crossing of third country nationals of whose border crossing is subject to a registration in the EES	"Article 8d Use of self-service systems and/or e-gates for the border crossing of third country nationals of whose border crossing is subject to a registration in the EES	"Article 8d Use of self-service systems and/or e-gates for the border crossing [...] <u>by</u> third country nationals [...] whose border crossing is subject to a registration in the EES	Provisionally agreed: Article 8d Use of self-service systems and/or e-gates for the border crossing <u>by</u> third country nationals whose border crossing is subject to a registration in the EES
1. 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:	1. 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:	1. 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:	Provisionally agreed: 1. 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:
(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 and integrity 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 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 integrity</u> of the chip data shall be confirmed using the complete valid certificate chain;
(b) the travel document presented for the border crossing shall contain a facial image recorded in the chip which can be legally and technically accessed by the automated system so as to verify the identity of the holder of the travel document, by comparing the facial image recorded in the chip	(b) the travel document presented for the border crossing shall contain a facial image recorded in the chip which can be legally and technically accessed by the automated border control system so as to verify the identity of the holder of the travel document, by comparing the facial	(b) the travel document [...] shall contain a facial image recorded in the chip which can be [...] technically accessed by the [...] <u>self-service</u> system so as to verify the identity of the holder of the travel document, by comparing the facial image recorded in the chip and his/her live facial	Provisionally agreed: (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

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

	<p>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.</p>		<p><i>This is covered by para 2 above.</i></p>
<p>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.</p>	<p>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.</p>	<p>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. [...] <u>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.</u></p>	<p>Provisionally agreed: 3. On entry and exit, the results of the border checks carried out through the self-service system shall be made available to a border guard. <u>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.</u></p>
<p>4. The person shall be referred to a border guard in the following situations:</p>	<p>4. The person shall be referred to a border guard in the following situations:</p>	<p>4. The person shall be referred to a border guard in the following situations:</p>	<p></p>
<p>(a) when one or several of the conditions listed under paragraph 1 is or are not fulfilled;</p>	<p>(a) when one or several of the conditions listed under paragraph 1 is or are not fulfilled;</p>	<p>(a) when one or several of the conditions listed under paragraph 1 is or are not fulfilled;</p>	<p></p>

(b) when the checks on entry or exit under paragraph 2 reveal that one or several of the entry or exit conditions are not met;	(b) when the checks on entry or exit under paragraph 2 reveal that one or several of the entry or exit conditions are not met;	(b) when the checks on entry or exit under paragraph 2 reveal that one or several of the entry or exit conditions are not met;	
(c) when the results of the checks on entry or exit under paragraph 2 put into question the identity of the person or when they reveal that the person is considered to be a threat to the internal security, public policy, international relations of any of the Member States or to public health;	(c) when the results of the checks on entry or exit under paragraph 2 put into question the identity of the person or when they reveal that the person is considered to be a threat to the internal security, public policy, international relations of any of the Member States or to public health;	(c) when the results of the checks on entry or exit under paragraph 2 put into question the identity of the person or when they reveal that the person is considered to be a threat to the internal security, public policy, international relations of any of the 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 referred to in paragraph 4, the border guard supervising the border crossing may decide to refer persons using self-service system to a border guard based on other reasons.	5. In addition to the situations referred to in paragraph 4, the border guard supervising the border crossing may decide to refer persons using self-service system to a border guard based on other reasons.	5. In addition to the situations referred to in paragraph 4, the border guard supervising the border crossing may decide to refer persons using self-service system to a border guard based on other reasons.	
6. Persons whose border crossing is subject to a registration in the EES in accordance with Article 6a(1) and who used a self-service system for the performance of their border checks may be authorised to use an e-gate. Where an e-gate is used, the corresponding registration of the entry/exit record and the linking of that record to the concerned individual file pursuant to Article 13 of [Regulation establishing the	6. Persons whose border crossing is subject to a registration in the EES in accordance with Article 6a(1) and who used a self-service system for the performance of their border checks may be authorised to use an e-gate. Where an e-gate is used, the corresponding registration of the entry/exit record and the linking of that record to the concerned individual file pursuant to Article 13 of [Regulation establishing the	6. Persons whose border crossing is subject to a registration in the EES in accordance with Article 6a(1) and who used a self-service system for the performance of their border checks may be authorised to use an e-gate. Where an e-gate is used, the corresponding registration of the entry/exit record and the linking of that record to the concerned individual file pursuant to Article 13 of [Regulation establishing the	

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

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

include examination of the aspects referred to in Article 8(3)(a) (iv) and (v) when crossing the external border of such a Member State if the following conditions are met:	include examination of the aspects referred to in Article 8(3)(a) (iv) and (v) when crossing the external border of such a Member State if the following conditions are met:	include examination of the aspects referred to in Article 8(3)(a) (iv) and (v) when crossing the external border of such a Member State [...].	thorough checks on entry may not include examination of the aspects referred to in Article 8(3)(a) (iv) and (v) when crossing the external border of such a Member State.
(a) the Member State carries out a pre-vetting of the third country nationals applying to the programme;	(a) the Member State carries out a pre-vetting of the third country nationals applying to the programme;	<u>2a. [...] The Member State shall carry out a pre-vetting of third country nationals applying to the programme</u>	<i>Compromise proposal:</i> 2a. The Member State shall carry out a pre-vetting of third country nationals applying to the programme in order to verify in particular, that the conditions referred to in paragraph 3 are fulfilled.
(b) the pre-vetting referred to in point (a) is carried out by visa or border authorities within the meaning of Article 4(3) of Regulation (EC) No 767/2008 or by authorities assigned, in accordance with national law, to carry out checks on persons at the external border crossing points in accordance with this Regulation;	(b) the pre-vetting referred to in point (a) is carried out by visa or border authorities within the meaning of Article 4(3) of Regulation (EC) No 767/2008 or by authorities assigned, in accordance with national law, to carry out checks on persons at the external border crossing points in accordance with this Regulation;	<u>[...] The pre-vetting is carried out by border guards, visa authorities or by immigration authorities defined under Article 3(1)(3) of Regulation establishing the Entry/Exit system (EES);</u>	<i>Compromise proposal:</i> The pre-vetting shall be carried out by border guards, visa authorities or by [immigration authorities] defined under Article 3(1)(3) of Regulation establishing the Entry/Exit system (EES);
(c) the authorities referred to in paragraph (b) only grant access to the programme when the following minimum conditions are met:	(c) the authorities referred to in paragraph (b) only grant access to the programme when the following minimum conditions are met:	(c)3. The competent authorities of a Member State [...] only grant access to the programme when the following minimum conditions are met:	<i>Compromise proposal:</i> 3. The authorities referred to in paragraph 2a shall only grant access to the programme when the following minimum conditions are met:
(i) the applicant fulfils the entry conditions set out in Article 6(1) of this Regulation;	(i) the applicant fulfils the entry conditions set out in Article 6(1) of this Regulation;	<u>a) the applicant fulfils the entry conditions set out in Article 6(1) of this Regulation;</u>	<i>Provisionally agreed:</i> a) the applicant fulfils the entry conditions set out in Article 6(1) of this Regulation;

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

	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;	<i>Provisionally agreed:</i> e) the applicant justifies the purpose and conditions of the intended stays;
(vi) the applicant possesses sufficient means of subsistence both for the duration of the intended stays and for the return to the country of origin or residence, or that the applicant is in a position to acquire such means lawfully;	(vi) the applicant possesses sufficient means of subsistence both for the duration of the intended stays and for the return to the country of origin or residence, or that the applicant is in a position to acquire such means lawfully;	f) the applicant possesses sufficient means of subsistence both for the duration of the intended stays and for the return to the country of origin or residence, or that the applicant is in a position to acquire such means lawfully;	<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);	[...]	<i>Commission to propose drafting suggestion.</i>
(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.	[...]	<i>Commission to propose drafting suggestion.</i>

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

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

<p>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.</p> <p>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.</p>	<p>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.</p> <p>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.</p>	<p>during the authorised stay.</p> <p>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.</p> <p>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.</p>	<p>territory of the Member State(s) during the authorised stay.</p> <p>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.</p> <p>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.</p>
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<p>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.</p>	<p>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.</p>	<p>4-8. Two or more Member States having established their own national programme pursuant to this Article may conclude among them an agreement in order to ensure that the beneficiaries of their national programmes may benefit from the facilitations recognised by the other national programme(s). Within the time-limit of one month from the conclusion of the agreement, a copy of the agreement shall be transmitted to the Commission.</p>	<p>Provisionally agreed: 8. Two or more Member States having established their own national programme pursuant to this Article may conclude among them an agreement in order to ensure that the beneficiaries of their national programmes may benefit from the facilitations recognised by the other national programme(s). Within the time-limit of one month from the conclusion of the agreement, a copy of the agreement shall be transmitted to the Commission.</p>
	<p><i>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 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.</i></p>		<p><i>This paragraph is covered under paragraph 5.</i></p>

	<i>4b. An adequate level of security shall be established between national facilitation programmes and the EES following a proper information security risk assessment.</i>		<i>EP withdrew its amendment.</i>
	<i>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.</i>		<i>Commission to provide drafting suggestions.</i>
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."	59. 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."	<i>Provisionally agreed:</i> <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 follows:	(9) Article 9 is amended as follows:	(9) Article 9 is amended as follows:	
(a) Paragraph 3 is replaced by the following:	(a) Paragraph 3 is replaced by the following:	(a) Paragraph 3 is replaced by the following:	
"3. Even in the event that checks are relaxed, the border guard shall enter the data in the EES, in accordance with Article 6a. Where the data cannot be entered by electronic means it shall be entered manually."	"3. Even in the event that checks are relaxed, the border guard shall enter the data in the EES, in accordance with Article 6a. Where the data cannot be entered by electronic means it shall be entered manually."	"3. Even in the event that checks are relaxed, the border guard shall enter the data in the EES, in accordance with Article 6a. Where the data cannot be entered by electronic means it shall be entered manually."	
(b) The following paragraph 3a is inserted:	(b) The following paragraph 3a is inserted:	(b) The following paragraph 3a is inserted:	
"3a. In case of technical impossibility to enter data in the Central System of the EES or in case of failure of the Central System of the EES, the following provisions shall apply:	"3a. In case of technical impossibility to enter data in the Central System of the EES or in case of failure of the Central System of the EES, the following provisions shall apply:	"3a. In case of technical impossibility to enter data in the Central System of the EES or in case of failure of the Central System of the EES, the following provisions shall apply:	
(i) by way of derogation from Article 6a of this Regulation, the data referred to in Articles 14, 15, 16, 17 and 18 of [Regulation establishing the Entry/Exit System (EES)] shall be temporarily stored in the National Uniform Interface as defined in Article 6 of [Regulation establishing the Entry/Exit System (EES)]. If this is not possible, the data shall be temporarily stored locally. In both situations, the data shall be entered into the Central System of the EES as	(i) by way of derogation from Article 6a of this Regulation, the data referred to in Articles 14, 15, 16, 17 and 18 of [Regulation establishing the Entry/Exit System (EES)] shall be temporarily stored in the National Uniform Interface as defined in Article 6 of [Regulation establishing the Entry/Exit System (EES)]. If this is not possible, the data shall be temporarily stored locally. In both situations, the data shall be entered into the Central System of the EES as	(i) by way of derogation from Article 6a of this Regulation, the data referred to in Articles 14, 15, 16, 17 and 18 of [Regulation establishing the Entry/Exit System (EES)] shall be [...] temporarily stored in the National Uniform Interface as defined in Article 6 of [Regulation establishing the Entry/Exit System (EES)]. If this is not possible, the data shall be temporarily stored locally. In [...] all cases, the data shall be entered into the Central	

<p>soon as the technical impossibility or failure has been remedied. Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources in order to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points;</p>	<p>soon as the technical impossibility or failure has been remedied. Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources in order to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points;</p>	<p>System of the EES as soon as the technical impossibility or failure has been remedied. Member States shall take the appropriate measures and deploy the required infrastructure, equipment and resources in order to ensure that such temporary local storage can be carried out at any time and for any of their border crossing points; <u>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.</u></p>	
<p>(ii) by way of derogation from Articles 8(3)(a)(iii) and 8(3)(g)(iv) for nationals of third countries holding a visa [or a touring visa] referred to in Article 6(1)(b), when technically possible, the verification of the identity of the holder of the</p>	<p>(ii) by way of derogation from Articles 8(3)(a)(iii) and 8(3)(g)(iv) for nationals of third countries holding a visa [or a touring visa] referred to in Article 6(1)(b), when technically possible, the verification of the identity of the holder of the</p>	<p>(ii) by way of derogation from Articles 8(3)(a)(iii) and 8(3)(g)(iv) for nationals of third countries holding a visa [or a touring visa] referred to in Article 6(1)(b), when technically possible, the verification of the identity of the holder of the</p>	

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

		Member State.	
		<u>1a. The travel document of a third-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.</u>	
2. The practical arrangements for stamping are set out in Annex IV".	2. The practical arrangements for stamping are set out in Annex IV".	2. The practical arrangements for stamping are set out in Annex IV".	
(12) Article 12 is replaced by the following:	(12) Article 12 is replaced by the following:	(12) Article 12 is replaced by the following:	
"Article 12 <i>Presumptions as regards fulfilment of conditions of duration of stay</i>	"Article 12 <i>Presumptions as regards fulfilment of conditions of duration of stay</i>	"Article 12 <i>[...]Presumption as regards fulfilment of conditions of duration of short stay</i>	
1. Without prejudice to Article 12a, if a third country national present on the territory of a Member State is not registered in the EES or the entry/exit record of the person does not contain an exit date following the date of expiry of the authorised length of stay, the competent authorities may presume that the person does not fulfil, or no	1. Without prejudice to Article 12a, if a third country national present on the territory of a Member State is not registered in the EES or the entry/exit record of the person does not contain an exit date following the date of expiry of the authorised length of stay, the competent authorities may presume that the person does not fulfil, or no	1. Without prejudice to Article 12a, if a third country national present on the territory of a Member State [...] <u>has no individual file created in the EES or the last entry/exit record is not relevant</u> [...], the competent authorities may presume that the person does not fulfil, or no longer fulfils, the conditions [...] <u>of duration of</u>	

<p>longer fulfils, the conditions relating to duration of stay on the territory of the Member States.</p>	<p>longer fulfils, the conditions relating to duration of stay on the territory of the Member States.</p>	<p><u>authorised stay [...] within the territory of 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.</u></p>	
<p>2. This presumption shall not apply to a third country national who can provide, by any means, credible evidence that the person enjoys the right of free movement under Union law or that the person holds a residence permit or a long stay visa. Where applicable, Article 32 of [Regulation establishing the Entry/Exit System (EES)] shall be applied.</p>	<p>2. This presumption shall not apply to a third country national who can provide, by any means, credible evidence that the person enjoys the right of free movement under Union law or that the person holds a residence permit or a long stay visa. Where applicable, Article 32 of [Regulation establishing the Entry/Exit System (EES)] shall be applied.</p>	<p>2. This presumption shall not apply to a third country national who can provide, by any means, credible evidence that <u>he or she</u> [...] enjoys the right of free movement under Union law or that <u>he or she</u> [...] holds a residence permit or a long stay visa. Where applicable, Article 32 of [Regulation establishing the Entry/Exit System (EES)] shall be applied.</p>	
<p>3. The presumption referred to in paragraph 1 may be rebutted where the person provides, by any means, credible evidence, such as transport tickets or proof of his or her presence outside the territory of the Member State or of the date of expiry of a previous residence permit or long</p>	<p>3. The presumption referred to in paragraph 1 may be rebutted where the person provides, by any means, credible evidence, such as transport tickets or proof of his or her presence outside the territory of the Member State or of the date of expiry of a previous residence permit or long</p>	<p>3. The presumption referred to in paragraph 1 may be rebutted where the [...] <u>third country national</u> provides, by any means, credible evidence, such as transport tickets or proof of his or her presence outside the territory of the Member States or of the date of expiry of a previous</p>	

<p>stay visa, that he or she has respected the conditions relating to the duration of a short stay. In such situations the competent authorities shall apply the procedure laid down in Article 18 of [Regulation establishing the Entry/Exit System (EES)].</p>	<p>stay visa, that he or she has respected the conditions relating to the duration of a short stay. In such situations the competent authorities shall apply the procedure laid down in Article 18 of [Regulation establishing the Entry/Exit System (EES)].</p>	<p>residence permit or long stay visa, that he or she has respected the conditions relating to the duration of a short stay. In such [...] <u>a case</u> the competent authorities shall [...] <u>create an individual file if necessary or indicate in the Entry/Exit System the date on which, and the place where, he or she crossed the external border of one of the Member States in accordance with Article 18 of [Regulation establishing the Entry/Exit System (EES)];</u></p>	
<p>4. If the presumption referred to in paragraph 1 is not rebutted, the third country national may be expelled by the competent authorities from the territory of the Member States concerned. A third country national who establishes that he or she enjoys the right of free movement under Union law may only be expelled by the competent border and immigration authorities of the territory of the Member State concerned in accordance with Directive 2004/38/EC."</p>	<p>4. If the presumption referred to in paragraph 1 is not rebutted, the third country national may be expelled by the competent authorities from the territory of the Member States concerned. A third country national who establishes that he or she enjoys the right of free movement under Union law may only be expelled by the competent border and immigration authorities of the territory of the Member State concerned in accordance with Directive 2004/38/EC."</p>	<p><u>4. Should the presumption referred to in paragraph 1 not be rebutted, the third-country national may be X returned in accordance with Directive 2008/115/EC¹⁵ and with national law respecting that Directive. [...]</u> A third country national [...] enjoying the right of free movement under Union law may only be [...] returned [...] in accordance with Directive 2004/38/EC."</p>	

¹⁵ 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).

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

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

which have been made, by the Member State which refused entry."	which have been made, by the Member State which refused entry."	which have been made, by the Member State which refused entry."	
		(14a) Article 20 is amended as follows	
		Paragraph 1(a) is replaced by the following:	
		" <u>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);</u> "	
	<i>(14a) In Article 37, paragraph 2 is replaced by the following:</i>		
	"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."		
	<i>(14b) In Article 37, paragraph 3 is replaced by the following:</i>		
	"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 <i>Official Journal of the European Union</i> or at a later date		

	specified therein. It shall not affect the validity of any delegated acts already in force.”		
	<i>(14c) In Article 37, the following paragraph 3a is added:</i>		
	<i>3a. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making*.</i> <i>* OJ L 123, 12.5.2016, p. 1.</i>		
	<i>(14d) In Article 37, paragraph 5 is replaced by the following:</i>		
	“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 amended in accordance with the Annex to this Regulation	(15) Annexes III, IV and V are amended in accordance with the Annex to this Regulation	(15) Annexes III, IV, [...]V and VII are amended in accordance with the Annex to this Regulation	
	<i>(15a) In Annex VII, point 1 is replaced by the following:</i>		
	1. Heads of State <i>and heads of government</i> 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>	
<i>Article 2</i>	<i>Article 2</i>	<i>Article 2</i>	
This Regulation shall enter into force on the twentieth day following that of its publication.	This Regulation shall enter into force on the twentieth day following that of its publication.	<u>1.</u> This Regulation shall enter into force on the twentieth day following that of its publication.	
It shall apply from the date on which the EES is to start operations, as determined by the Commission in accordance with Article 60 of [Regulation N° XXX of the European Parliament and of the Council establishing the Entry/Exit System (EES) to register entry and exit data of third country nationals	It shall apply from the date on which the EES is to start operations, as determined by the Commission in accordance with Article 60 of [Regulation N° XXX of the European Parliament and of the Council establishing the Entry/Exit System (EES) to register entry and exit data of third country nationals	<u>2.</u> It shall apply from the date on which the EES is to start operations, as determined by the Commission in accordance with Article 60 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 <u>and refusal of entry data</u> of	

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].	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].	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].	
		<p><u>2a. 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.</u></p>	
		<p><u>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</u></p>	

		<u>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.</u>	
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,	
<i>For the EP</i> <i>For the Council</i> The President The President	<i>For the EP</i> <i>For the Council</i> The President The 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

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

<i>ANNEX</i>	<i>ANNEX</i>	<i>ANNEX</i>	
Annexes to Regulation (EU) 2016/399 are amended as follows:	Annexes to Regulation (EU) 2016/399 are amended as follows:	Annexes to Regulation (EU) 2016/399 are amended as follows:	
1. Part D is added to Annex III:	1. Part D is added to Annex III:	1. Part D [...] and E are added to Annex III:	
"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"	[...]	

		<u>Part E: Lanes for Registered Travelers</u>	
		<u>“LOGO”</u>	
2. Annex IV is amended as follows:	2. Annex IV is amended as follows:	2. Annex IV is amended as follows:	
(a) point 1 is replaced by the following:	(a) point 1 is replaced by the following:	(a) point 1 is replaced by the following:	
"1. Where provided expressly by its national legislation, a Member State may stamp on entry and exit the travel document of those third country nationals holding a residence permit issued by that same 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."	"1. Where provided expressly by its national legislation, a Member State may stamp on entry and exit the travel document of those third country nationals holding a residence permit issued by that same 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."	"1. <u>The travel document of a third country national holder of a Facilitated Rail Transit Document issued in accordance with Regulation (EC) No 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.</u> Besides, where provided expressly by its national legislation, a Member State may stamp on entry and exit the travel document of those third country nationals holding a residence permit <u>or long-stay visa</u> issued by that same 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 are laid down in the Schengen Executive Committee Decision SCH/COM-EX (94) 16 rev and SCH/Gem-Handb (93) 15 (CONFIDENTIAL)."	"The specifications of those stamps are laid down in the Schengen Executive Committee Decision SCH/COM-EX (94) 16 rev and SCH/Gem-Handb (93) 15 (CONFIDENTIAL)."	"The specifications of those stamps are laid down in the Schengen Executive Committee Decision SCH/COM-EX (94) 16 rev and SCH/Gem-Handb (93) 15 (CONFIDENTIAL)."	
(c) point 3 is replaced by the following:	(c) point 3 is replaced by the following: <i>deleted.</i>	(c) point 3 is replaced by the following:	
"3. In case of refusal of entry of a third country national subject to the visa obligation, the stamp shall, as a general rule, be affixed on the page facing the one on which the visa is affixed. If that page cannot be used, the stamp shall be entered on the following page. The machine readable zone shall not be stamped."	"3. In case of refusal of entry of a third country national subject to the visa obligation, the stamp shall, as a general rule, be affixed on the page facing the one on which the visa is affixed. If that page cannot be used, the stamp shall be entered on the following page. The machine readable zone shall not be stamped."	"3. In case of refusal of entry of a third country national subject to the visa obligation, the stamp shall, as a general rule, be affixed on the page facing the one on which the visa is affixed. If that page cannot be used, the stamp shall be entered on the following page. The machine readable zone shall not be stamped."	
3. Annex V part A is amended as follows:	3. Annex V part A is amended as follows:	3. Annex V part A is amended as follows:	
(a) point 1(b) is replaced by the following:	(a) point 1(b) is replaced by the following:	(a) point 1(b) is replaced by the following:	

<p>"(b) for third country nationals whose entry for a short stay [or on the basis of a touring visa] has been refused, the data on refusal of entry shall be registered into the EES in accordance with Article 6a(2) of this Regulation and Article 16 of [Regulation establishing the Entry/Exit System (EES)]. In addition, 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 this Annex;"</p>	<p>"(b) for third country nationals whose entry for a short stay [or on the basis of a touring visa] has been refused, the data on refusal of entry shall be registered into the EES in accordance with Article 6a(2) of this Regulation and Article 16 of [Regulation establishing the Entry/Exit System (EES)]. In addition, 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 this Annex;"</p>	<p>"(b) for third country nationals whose entry for a short stay [or on the basis of a touring visa] has been refused, the data on refusal of entry shall be registered into the EES in accordance with Article 6a(2) of this Regulation and Article 16 of [Regulation establishing the Entry/Exit System (EES)]. In addition, 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 this Annex;"</p>	
<p>(b) point 1(d) is replaced by the following:</p>	<p>(b) point 1(d) is replaced by the following:</p>	<p>(b) point 1(d) is replaced by the following:</p>	
<p>"(d) for third country nationals whose refusals of entry shall not be registered into the EES, 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</p>	<p>"(d) for third country nationals whose refusals of entry shall not be registered into the EES, 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</p>	<p>"(d) for third country nationals whose refusals of entry shall not be registered into the EES, 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</p>	

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 the identity and nationality of the third country national concerned, the references of the document authorising the third country national to cross the border and the reason for, and date of, refusal of entry;"	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 the identity and nationality of the third country national concerned, the references of the document authorising the third country national to cross the border and the reason for, and date of, refusal of entry;"	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 the identity and nationality of the third country national concerned, the references of the document authorising the third country national to cross the border and the reason for, and date of, refusal of entry;"	
(c) point 1(e) is added:	(c) point 1(e) is added:	(c) point 1(e) is added:	
"(e) The practical arrangements for stamping are set out in Annex IV."	"(e) The practical arrangements for stamping are set out in Annex IV."	"(e) The practical arrangements for stamping are set out in Annex IV."	
	3a. In Annex V part B, the following is added under the section entitled "comments"::		
	<i>"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</i>		

	<i>and that data recorded unlawfully be erased.”</i>		
		4. <u>In Annex V, part B, in the Standard form for refusal of entry at the border, is amended as follows:</u>	
		<u>(J) has refused to provide the biometric data, if required</u>	
		<input type="checkbox"/> <u>for the creation of the individual file in the Entry/Exit system</u>	
		<input type="checkbox"/> <u>to carry out the border check.</u>	
		5. <u>Annex VII is amended as follows:</u>	
		<u>point 1 is replaced by the following:</u>	
		<u>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.</u>	

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

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

		<u>Article 11</u> [reproduce the whole text in its version from before the entry into force of this Regulation]	
		<u>Article 12</u> [reproduce the whole text in its version from before the entry into force of this Regulation]	
		<u>Article 13</u> [reproduce the whole text in its version from before the entry into force of this Regulation]	
		<u>Article 14</u> [reproduce the whole text in its version from before the entry into force of this Regulation]"	
		<u>Annex III</u> [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]"	
		<u>Annex IV</u> [reproduce the whole text in its version from before the entry into force of this Regulation]"	
		<u>Annex V</u> [reproduce the whole text in its version from before the entry into force of this Regulation]"	

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