



Council of the European Union  
General Secretariat

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WK 15766/2025 INIT

LIMITE

IXIM

JAI

VISA

DATAPROTECT

USA

JAIEX

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#### NOTE

From:	Presidency
To:	Working Party on JHA Information Exchange JHA Counsellors (Visa, Frontiers, Schengen) Visa Working Party
N° Cion doc.:	ST 11884 2025 ADD 1 + ST 11884 2025 INIT
Subject:	Commission recommendation for a Council Decision authorising the opening of negotiations on a framework agreement between the European Union and the United States of America on the exchange of information for security screenings and identity verifications relating to border procedures and applications for visa: third Presidency draft compromise text

Delegations will find in annex the third draft Presidency compromise text in view of the Working Party on JHA Information Exchange (IXIM) meeting of 24 November 2025.

Changes compared to the Commission's recommendation (ST 11884 2025)) are marked in **bold** **underlined** for additions, and ~~strikethrough~~ for deletions.

## COUNCIL DECISION

**authorising the opening of negotiations on a framework agreement between the European Union and the United States of America on the reciprocal exchange of information for security screenings and identity verifications relating to border procedures and applications for visa**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 16(2); **and** Article 77(2), **in conjunction with** ~~and~~ Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

- (1) The United States of America have introduced a new requirement for admission to and further participation in the U.S. Visa Waiver Program, which enables citizens of participating countries to travel to the United States visa-free for maximum 90 days for the purpose of tourism or business. The new requirement entails the conclusion of an 'Enhanced Border Security Partnership' (EBSP) with the U.S. Department of Homeland Security. **As a consequence,** ~~There is a need for a common framework~~ **on the European Union side** for information exchange in the context of the EBSP: **aiming at facilitating and increasing the certainty of information exchange between partners.** Negotiations should therefore be opened with a view to concluding a framework agreement between the Union and the United States of America on the exchange of information for the screening **and verification of identity of travellers** ~~and identity verification of certain travellers crossing the external borders~~ **necessary to determine if a traveller's entry or stay would pose any risk to public security or public order. Information exchanged to support the screening and verification of identity of travellers may subsequently be used, without prejudice to the application of relevant frameworks for information exchange with the U.S., including on law enforcement and criminal matters such as PCSC agreements and MLAs, and only when necessary and authorised by bilateral agreement, to support the competent authorities in their ensuing efforts to address irregular migration and to prevent, detect, and combat serious crime and terrorist offences, provided these efforts are taking place in the context of border management and border control.**
- (1a) This framework agreement should not affect the functioning of other agreements between the Union or Member States on one side, and the U.S. on the other side, including Preventing and Combatting Serious Crimes (PCSC) agreements for law**

enforcement or Mutual Legal Assistance agreements for criminal matters.

- (1b) The framework agreement should aim to reflect the Member States' commitment to participate in the US Visa Waiver Programme. As such, it is essential for the Union to clearly signal that, in light of the opening of negotiations on the framework agreement, the U.S. should only assess after an appropriate period of time whether Member States have concluded a bilateral EBSP agreement or arrangement.
- (2) The framework agreement should respect fundamental rights and observe the principles recognised by the Charter of Fundamental Rights of the Union, in particular the right to liberty and security recognised by Article 6 of the Charter, the right to private and family life recognised in Article 7 of the Charter, the right to the protection of personal data recognised in Article 8 of the Charter, and the right to effective remedy and fair trial recognised in Article 47 of the Charter; the presumption of innocence and right of defence recognised in Article 48 of the Charter and the principles of legality and proportionality of criminal offences and penalties recognised in Article 49 of the Charter. The framework agreement should be applied in accordance with those rights and principles and having due regard to the principle of proportionality in accordance with Article 52(1) of the Charter. The framework agreement should also be in line with Chapter V of Regulation (EU) 2016/679 and Chapter V of Regulation (EU) Directive (EU) 2016/680 and the the principles of Regulation (EU) 2024/1689.
- (3) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council and delivered an opinion on 18 September 2025<sup>1</sup>. ~~[XX].~~
- (4) The framework agreement should allow for the conclusion of bilateral arrangements and agreements between the Member States and the United States of America ~~and the Member States~~ on matters covered by it; the framework agreement provided that the provisions of such bilateral arrangements are compatible with those of the framework agreement and with Union law. Bilateral arrangements or agreements on matters covered by the framework agreement and concluded prior to the entry into force of the framework agreement should be aligned with the framework agreement.
- (5) The Commission should be nominated as the Union negotiator.

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<sup>1</sup> European Data Protection Supervisor (EDPS), Opinion 24/2025 of 18 September 2025 on the Recommendation for a Council Decision authorising the opening of negotiations on a framework agreement between EU and USA on the exchange of information for security screenings and identity verifications.

- (6) 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 TFEU, Denmark is not taking part in the adoption of this Recommendation and is not bound by it or subject to its application.
- (7) This Recommendation constitutes a development of the provisions of the Schengen acquis in which Ireland does not take part, in accordance with Council Decision 2002/192/EC (8); Ireland is therefore not taking part in its adoption and is not bound by it or subject to its application.

HAS ADOPTED THIS DECISION:

*Article 1*

The Commission is hereby authorised to negotiate, on behalf of the Union, a framework agreement between the Union and the United States of America on the exchange of information **for the screening and verification of identity of travellers necessary to determine if their entry or stay would pose a risk to public security or public order** for security screenings and identity verifications relating to border procedures and applications for visa.

**The negotiations shall be conducted on the basis of the negotiating directives of the Council set out in the addendum to this Decision.**

*Article 2*

~~The negotiating directives are set out in the Annex.~~ **The Commission is hereby nominated as the Union negotiator.**

*Article 3*

The negotiations **referred to in Article 1** should be conducted in consultation with **the Working Party on Information Exchange in the JHA area (IXIM) which is designated as a special committee within the meaning of Article 218(4) TFEU,** ~~[the name of the special committee to be inserted by the Council]~~. **subject to any guidance which the Council may subsequently issue to the Commission.**

**The Commission shall report to the Council on the conduct, the progress and the outcome of the negotiations on a regular basis and whenever requested by the Council, and shall forward the relevant documents to it as early as possible in order to allow the members of the Council reasonable time to prepare themselves properly for the working party discussions on the forthcoming negotiations of the framework agreement.**

**Where appropriate, or where requested by the Council, the Commission shall produce a written report.**

*Article 4*

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council*

*The President*