



14.10.2016

AMENDMENTS

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Draft report
Monika Hohlmeier
(PE587.729v01-00)

Establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the EU and determining the conditions for access to the EES for law enforcement purposes

Proposal for a regulation
(COM(2016)0194 – C8-0135/2016 – 2016/0106(COD))

Amendment 6
Notis Marias

Proposal for a regulation
Citation 1 a (new)

Text proposed by the Commission

Amendment

having regard to the Protocol (No 1) of the Treaty on the Functioning of the European Union (TFEU) on the role of National Parliaments in the European Union,

Or. el

Amendment 7
Notis Marias

Proposal for a regulation
Citation 1 b (new)

Text proposed by the Commission

Amendment

having regard to Protocol (No 2) of the Treaty on the Functioning of the European Union (TFEU) on the application of the principles of subsidiarity and proportionality,

Or. el

Amendment 8
Gérard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation
Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) In its communication of 6 April 2016 on 'Stronger and Smarter Information Systems for Borders and Security', the Commission presented a process aimed at achieving the

interoperability of information systems in order to improve structurally the EU's data management architecture for border controls and security.

Or. fr

Amendment 9

G rard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation

Recital 7

Text proposed by the Commission

(7) It is necessary to specify the objectives of the Entry/Exit System (EES) and its technical architecture, to lay down rules concerning its operation *and* use and to define responsibilities for the system, the categories of data to be entered into the system, the purposes for which the data are to be entered, the criteria for their entry, the authorities authorised to access the data and further rules on data processing and the protection of personal data.

Amendment

(7) It is necessary to specify the objectives of the Entry/Exit System (EES) and its technical architecture, to lay down rules concerning its operation, use *and interoperability with other information systems* and to define responsibilities for the system, the categories of data to be entered into the system, the purposes for which the data are to be entered, the criteria for their entry, the authorities authorised to access the data and further rules on data processing and the protection of personal data.

Or. fr

Amendment 10

Notis Marias

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) To meet those objectives, the EES should process alphanumeric data and biometric data (fingerprints and facial image). *The use of biometrics, despite its impact on the privacy of travellers, is justified for two reasons. Firstly,*

Amendment

(10) To meet those objectives, the EES should process alphanumeric data and biometric data (fingerprints and facial image).

biometrics are a reliable method to identify third country nationals within the territory of the Member States not in possession of travel documents or any other means of identification, a common modus operandi of irregular migrants. Secondly, biometrics provide for the more reliable matching of entry and exit data of legal travellers. Where facial images are used in combination with fingerprint data, it allows for the reduction of fingerprints registered while enabling the same result in terms of accuracy of the identification.

Or. el

Amendment 11

Gérard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) The EES should consist of a Central System, which will operate a computerised central database of biometric and alphanumeric data, a National Uniform Interface in each Member State, a Secure Communication Channel between the EES Central System and the VIS Central System and the Communication Infrastructure between the Central System and the National Uniform Interfaces. Each Member State should connect its national border infrastructures to the National Uniform Interface.

Amendment

(12) The EES should consist of a Central System, which will operate a computerised central database of biometric and alphanumeric data, a National Uniform Interface in each Member State, a Secure Communication Channel between the EES Central System and the VIS Central System and ***between the EES Central System and the EURODAC Central System and*** the Communication Infrastructure between the Central System and the National Uniform Interfaces. Each Member State should connect its national border infrastructures to the National Uniform Interface. ***Member States' national border infrastructures include the Schengen Information System, the Interpol SLTD and Europol databases and the national databases of law enforcement authorities.***

Or. fr

Amendment 12

Gérard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation

Recital 13 a (new)

Text proposed by the Commission

Amendment

(13a) Interoperability should be established between the EES and Eurodac by way of a direct communication channel between the Central Systems to allow the automatic transfer from the EES to Eurodac of the data of persons having exceeded the authorised period of stay;

Or. fr

Justification

The new Eurodac Regulation provides for the registration of the data of each third-country national staying illegally on the territory of a Member State.

Under Article 11 of this Regulation, the EES will generate a list of persons who have exceeded the authorised length of their stay and are thus staying illegally. The automated data transfer will reduce duplication.

Amendment 13

Notis Marias

Proposal for a regulation

Recital 21

Text proposed by the Commission

Amendment

(21) Requests for access to data stored in the Central System should be made by the operating units within the designated authorities to the central access point and should be justified. The operating units within the designated authorities that are authorised to request access to EES data should not act as a verifying authority. The central access points should act

(21) Requests for access to data stored in the Central System should be made by the operating units within the designated authorities to the central access point and should be justified. The operating units within the designated authorities that are authorised to request access to EES data should not act as a verifying authority. The central access points should act

independently of the designated authorities and should be responsible for ensuring, in an independent manner, strict compliance with the conditions for access as established in this Regulation. ***In exceptional cases of urgency, where early access is necessary to respond to a specific and actual threat related to terrorist offences or other serious criminal offences, the central access point should be able to process the request immediately and only carry out the verification afterwards.***

independently of the designated authorities and should be responsible for ensuring, in an independent manner, strict compliance with the conditions for access as established in this Regulation.

Or. el

Amendment 14

Notis Marias

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) The personal data stored in the EES should be kept for no longer than is necessary for the purposes of the EES. It is appropriate to keep the data related to third country nationals for a period of **five** years for border management purposes in order to avoid the need for third country nationals to re-enrol in the EES before that period has lapsed. For third country nationals who are family members of a Union citizen to whom Directive 2004/38/EC 27 applies or of a national of a third country enjoying the right of free movement under Union law and who do not hold a residence card referred to under Directive 2004/38/EC, it is appropriate to store each coupled entry/ exit **reccord** for a maximum period of one year after the last exit.

²⁷ Directive 2004/38/EC of the European Parliament and of the Council of 29 April

Amendment

(25) The personal data stored in the EES should be kept for no longer than is necessary for the purposes of the EES. It is appropriate to keep the data related to third country nationals for a period of **seven** years for border management purposes in order to avoid the need for third country nationals to re-enrol in the EES before that period has lapsed. For third country nationals who are family members of a Union citizen to whom Directive 2004/38/EC 27 applies or of a national of a third country enjoying the right of free movement under Union law and who do not hold a residence card referred to under Directive 2004/38/EC, it is appropriate to store each coupled entry/ exit **record** for a maximum period of one year after the last exit.

²⁷ Directive 2004/38/EC of the European Parliament and of the Council of 29 April

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

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

Or. el

Amendment 15

Notis Marias

Proposal for a regulation

Recital 29

Text proposed by the Commission

(29) Rules on the liability of the Member States in respect to damage arising from any breach of this Regulation should be laid down.

Amendment

(29) Rules on the liability of the Member States **and the European Commission** in respect to damage arising from any breach of this Regulation should be laid down.

Or. el

Amendment 16

Notis Marias

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) Personal data obtained by Member States pursuant to this Regulation should not be transferred or made available to a third country, an international organisation or any private party established in or outside the Union **except if necessary in individual cases in order to assist the identification of a third country national in relation to his/her return and subject to**

Amendment

(32) Personal data obtained by Member States pursuant to this Regulation should not be transferred or made available to a third country, an international organisation or any private party established in or outside the Union.

strict conditions.

Or. el

Amendment 17
Notis Marias

Proposal for a regulation
Recital 39

Text proposed by the Commission

(39) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council³².

³² Regulation No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning the mechanisms of control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011,p. 13).

Amendment

(39) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council³²***and in cooperation with the national authorities.***

³² Regulation No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning the mechanisms of control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011,p. 13).

Or. el

Amendment 18
Notis Marias

Proposal for a regulation
Recital 41

Text proposed by the Commission

(41) Following the entry into operation of the Entry/Exit System, Article 20(2) of the Convention implementing the

Amendment

deleted

Schengen Agreement should be amended as it is incompatible with Article 77(2)(a) and (c) of the Treaty on Functioning of the European Union due to the fact that the common policy on visas cannot be based on the existence or non-existence of bilateral visa waiver agreements concluded by Member States and the authorised length of stay of third country nationals should not depend on the number and content of such bilateral agreements. Furthermore the Entry/Exit system could not take into account of and calculate the authorised length of stay of visa free third country nationals benefitting from such agreements and they should be eliminated.

Or. el

Amendment 19
Notis Marias

Proposal for a regulation
Recital 43

Text proposed by the Commission

Amendment

(43) This Regulation establishing the EES replaces the obligation to stamp passports of third country nationals which is applicable by all acceding Member States. Stays in Member States which are not yet fully applying the Schengen acquis in accordance with their respective Acts of Accession should not be taken into account in the calculation of the duration of the authorised stay in the Schengen area. Such Member States should register in the EES the stay of third country nationals but the automated calculator in the system should not compute it as part of the authorised length of stay.

deleted

Or. el

Amendment 20
Gérard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation
Recital 43

Text proposed by the Commission

(43) This Regulation establishing the EES replaces the obligation to stamp passports of third country nationals which is applicable by all acceding Member States. Stays in Member States which are not *yet fully* applying the Schengen *acquis in accordance with their respective Acts of Accession* should *not* be taken into account in the calculation of the duration of the authorised stay *in the Schengen area*. *Such Member States should register in the EES the stay of third country nationals but the automated calculator in the system should not compute it as part of the authorised length of stay.*

Amendment

(43) This Regulation establishing the EES replaces the obligation to stamp passports of third country nationals which is applicable by all acceding Member States. Stays in Member States which are not applying the Schengen *provisions under Title III of Regulation (EU) 2016/399* should be taken into account in the calculation of the duration of the authorised stay of *90 days in any period of 180 days*.

Or. fr

Justification

Excluding a stay in one of these States from the calculation of the authorised length of stay would lead either to having 5 calculation systems:

one for States fully applying the Schengen acquis and 4 for the others not applying it fully. This would lead to considerable unnecessary costs and mean that a TCN could reside on EU territory continuously by moving from a Schengen State to a non-Schengen State. Or having a single calculation system exclusively reserved for those States that fully apply the Schengen acquis, but with the abolition of passport stamp this option would mean that the 4 non-Schengen States would not benefit from the EES and be without any means to calculate the length of stay.

Amendment 21
Claudia Țapardel, Victor Negrescu, Alfred Sant

Proposal for a regulation
Recital 51 a (new)

Text proposed by the Commission

Amendment

(51 a) This Regulation calls on the Commission to extend the Schengen area to other Members States that comply with the accession criteria in view of having an adequate response to external security risks and ensuring an EU wide approach.

Or. en

Amendment 22

Claudia Țapardel, Victor Negrescu, Alfred Sant

Proposal for a regulation

Article 5 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) allow to identify and detect overstayers (also within the territory) and enable competent national authorities of the Member States to take appropriate measures including to increase the possibilities for return

(c) allow to identify and detect overstayers (also within the territory) and enable competent national authorities of the Member States to take appropriate measures including to increase the possibilities for return, ***with the exception of those seeking international protection***

Or. en

Amendment 23

G rard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation

Article 6 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) a National Uniform Interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the connection of the Central System to the national border infrastructures in Member States;

(b) a National Uniform Interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the connection of the Central System to the national border infrastructures in Member States; ***Member States' national border infrastructures***

include the Schengen Information System, the Interpol SLTD and Europol databases and the national databases of law enforcement authorities;

Or. fr

Amendment 24

Gérard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation

Article 6 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(a) a Secure Communication Channel between the EES Central System and the Eurodac Central System;

Or. fr

Amendment 25

Gérard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation

Article 7 a (new)

Text proposed by the Commission

Amendment

Article 7a

Interoperability with Eurodac

1. eu-LISA shall establish a Secure Communication Channel between the EES Central System and that of Eurodac to allow interoperability between the two systems.

2. The interoperability requirement allows the automated transfer of the data referred to in Articles 14 and 15 of all persons having exceeded the permitted length of stay from the EES Central System to the Eurodac Central System.

Amendment 26

Gérard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation**Article 10 – paragraph 4***Text proposed by the Commission*

4. Stays in Member States which are not *yet fully* applying the *Schengen acquis in accordance with their respective Acts of Accession* shall *not* be taken into account in the calculation of the duration of the authorised *stay in the Schengen area*. *Those Member States shall register the stays of third country nationals in the EES. The automated calculator in the system shall not however compute stays in Member States which are not yet fully applying the Schengen acquis as part of the authorised length of stay.*

Amendment

4. Stays in Member States which are not applying the *provisions under Title III of Regulation (EU) 2016/399* shall be taken into account in the calculation of the duration of the authorised stay.

Or. fr

Justification

Excluding a stay in one of these States from the calculation of the authorised length of a stay would lead either to having 5 calculation systems: one for States fully applying the Schengen acquis and 4 for the others not applying it fully. This would lead to considerable unnecessary costs and mean that a TCN could reside on EU territory continuously by moving from a Schengen State to a non-Schengen State. Or having a single calculation system exclusively reserved for those States that fully apply the Schengen acquis, but with the abolition of passport stamp this option would mean that the 4 non-Schengen States would not benefit from the EES and be without any means to calculate the length of stay.

Amendment 27

Gérard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation**Article 11 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. *The data referred to in Articles 14 and 15 of all persons having exceeded by more than 15 days the permitted length of stay and whose entry/exit record contains no exit data shall be automatically transferred to the Eurodac Central System.*

Or. fr

Amendment 28

Raffaele Fitto

Proposal for a regulation

Article 30 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Europol shall have access to consult the EES where ***all*** the following conditions ***are*** met:

1. Europol shall have access to consult the EES where ***at least one of*** the following conditions ***is*** met:

Or. it

Amendment 29

G rard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation

Article 34 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

eu-LISA shall be responsible for the development of the Central System, the National Uniform Interfaces, the Communication Infrastructure and the Secure Communication Channel between the EES Central System and the VIS Central System. It shall also be responsible for the development of the web service referred to in Article 12 in accordance with the specifications and conditions adopted in accordance with the examination procedure referred to in Article 61(2).

eu-LISA shall be responsible for the development of the Central System, the National Uniform Interfaces, the Communication Infrastructure and the Secure Communication Channel between the EES Central System and the VIS Central System ***and between the EES Central System and the Eurodac Central System***. It shall also be responsible for the development of the web service referred to in Article 12 in accordance with the specifications and conditions adopted in

accordance with the examination procedure referred to in Article 61(2).

Or. fr

Amendment 30

Gérard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation

Article 34 – paragraph 1 – subparagraph 2

Text proposed by the Commission

eu-LISA shall define the design of the physical architecture of the system including its Communication Infrastructure as well as the technical specifications and their evolution as regards the Central System, the Uniform Interfaces, the Secure Communication Channel between the EES Central System and the VIS Central System and the Communication Infrastructure, which shall be adopted by the Management Board, subject to a favourable opinion of the Commission. eu-LISA shall also implement any necessary adaptations to the VIS deriving from the establishment of interoperability with the EES as well as from the implementation of the amendments to Regulation (EC) No 767/2008 referred to in Article 55.

Amendment

eu-LISA shall define the design of the physical architecture of the system including its Communication Infrastructure as well as the technical specifications and their evolution as regards the Central System, the Uniform Interfaces, the Secure Communication Channel between the EES Central System and the VIS Central System and ***between the EES Central System and the Eurodac Central System*** and the Communication Infrastructure, which shall be adopted by the Management Board, subject to a favourable opinion of the Commission. eu-LISA shall also implement any necessary adaptations to the VIS deriving from the establishment of interoperability with the EES as well as from the implementation of the amendments to Regulation (EC) No 767/2008 referred to in Article 55.

Or. fr

Amendment 31

Gérard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation

Article 34 – paragraph 1 – subparagraph 3

Text proposed by the Commission

eu-LISA shall develop and implement the

Amendment

eu-LISA shall develop and implement the

Central System, the National Uniform Interfaces, the Secure Communication Channel between the EES Central System and the VIS Central System, and the Communication Infrastructure as soon as possible after the entry into force of this Regulation and the adoption by the Commission of the measures provided for in Article 33.

Central System, the National Uniform Interfaces, the Secure Communication Channel between the EES Central System and the VIS Central System *and between the EES Central System and the Eurodac Central System*, and the Communication Infrastructure as soon as possible after the entry into force of this Regulation and the adoption by the Commission of the measures provided for in Article 33.

Or. fr

Amendment 32

Gérard Deprez, Louis Michel, Monika Hohlmeier

Proposal for a regulation

Article 34 – paragraph 3 – subparagraph 1

Text proposed by the Commission

eu-LISA shall be responsible for the operational management of the Central System, the Secure Communication Channel between the EES Central System and the VIS Central System and the National Uniform Interfaces. It shall ensure, in cooperation with the Member States, at all times the best available technology, subject to a cost-benefit analysis. eu-LISA shall also be responsible for the operational management of the Communication Infrastructure between the Central system and the National Uniform Interfaces and for the web-service referred to in Article 12.

Amendment

eu-LISA shall be responsible for the operational management of the Central System, the Secure Communication Channel between the EES Central System and the VIS Central System and *between the EES Central System and the Eurodac Central System and* the National Uniform Interfaces. It shall ensure, in cooperation with the Member States, at all times the best available technology, subject to a cost-benefit analysis. eu-LISA shall also be responsible for the operational management of the Communication Infrastructure between the Central system and the National Uniform Interfaces and for the web-service referred to in Article 12.

Or. fr

Amendment 33

Claudia Țapardel, Victor Negrescu, Alfred Sant, Mercedes Bresso

Proposal for a regulation

Article 34 a (new)

Text proposed by the Commission

Amendment

Article 34 a

The Commission shall ensure that each Member State is provided with sufficient financial support in view of integrating the existing national border infrastructures with the EES via the National Uniform Interfaces. This financial support shall cover all national integration costs and expenses related to the implementation of this Regulation and shall be proportionate to the individual administrative needs of each Member State.

Or. en

Amendment 34

Claudia Țapardel, Victor Negrescu, Alfred Sant, Mercedes Bresso

Proposal for a regulation

Article 64 – paragraph 5

Text proposed by the Commission

Amendment

5. Three years after the start of operations of the EES and every **four** years thereafter, the Commission shall produce an overall evaluation of the EES. This overall evaluation shall include an examination of results achieved against objectives **and** the impact on fundamental rights, and assessing the continuing validity of the underlying rationale, the application of the Regulation, the security of the EES and any implications on future operations, and shall make any necessary recommendations. The Commission shall transmit the evaluation report to the European Parliament and the Council.

5. Three years after the start of operations of the EES and every **two** years thereafter, the Commission shall produce an overall evaluation of the EES. This overall evaluation shall include an examination of **costs and** results achieved against objectives **as well as** the impact on fundamental rights, and assessing the continuing validity of the underlying rationale, the application of the Regulation, the security of the EES and any implications on future operations, and shall make any necessary recommendations. The Commission shall transmit the evaluation report to the European Parliament and the Council.

Or. en

