



2016/0105(COD)

16.1.2017

AMENDMENTS

18 - 107

Draft report

Agustín Díaz de Mera García Consuegra
(PE594.059v02-00)

Amending Regulation (EU) 2016/399 as regards the use of the Entry/Exit System

Proposal for a regulation
(COM(2016)0196 – C8-0134/2016 – 2016/0105(COD))

Amendment 18

Notis Marias

Draft legislative resolution

Citation 3 a (new)

Draft legislative resolution

Amendment

- *having regard to the Protocol (No 1) of the Treaty on the Functioning of the European Union on the role of national parliaments in the European Union,*

Or. el

Amendment 19

Notis Marias

Draft legislative resolution

Citation 3 b (new)

Draft legislative resolution

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 20

Jan Philipp Albrecht

Draft legislative resolution

Paragraph 1

Draft legislative resolution

Amendment

1. *Adopts its position at first reading hereinafter set out;*

1. *Rejects the Commission proposal;*

Or. en

Amendment 21
Marine Le Pen, Gilles Lebreton

Draft legislative resolution
Paragraph 1

Draft legislative resolution

1. *Adopts its position at first reading hereinafter set out;*

Amendment

1. *Rejects the Commission proposal;*

Or. fr

Amendment 22
Jan Philipp Albrecht

Draft legislative resolution
Paragraph 2

Draft legislative resolution

2. Calls on the Commission to *refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;*

Amendment

2. Calls on the Commission to *withdraw* its proposal;

Or. en

Amendment 23
Marie-Christine Vergiat

Proposal for a regulation
Recital 2

Text proposed by the Commission

(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]⁹ *aims*

Amendment

(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 *needing a visa to enter the EU* crossing the external borders of the Member States of the European Union and determining the conditions for access to the EES for law

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*].

⁹ OJ L ...

enforcement purposes] *has the prime objective of* 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*].

Or. fr

Amendment 24 **Jan Philipp Albrecht**

Proposal for a regulation **Recital 2**

Text proposed by the Commission

(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]⁹ 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*].

⁹ OJ L ...

Amendment

(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]⁹ aims at creating a centralised system for the registration of entry and exit 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*].

⁹ OJ L ...

Or. en

Amendment 25
Notis Marias

Proposal for a regulation
Recital 3

Text proposed by the Commission

(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.

Amendment

(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 *check* that third country nationals holding a single or double entry visa have respected the maximum number of authorised entries.

Or. el

Amendment 26
Maria Grapini

Proposal for a regulation
Recital 4

Text proposed by the Commission

(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.

Amendment

(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. *To that effect, the duration of the authorised length of stay of 90 days within any 180-day period must include the periods spent on the territory of Member States which apply the provisions of Title III of Regulation 399/2016 and of those which do not.*

Amendment 27
Marie-Christine Vergiat

Proposal for a regulation
Recital 5

Text proposed by the Commission

(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.**

Amendment

(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 by replacing it by the electronic recording of the entry and exit directly in the EES. **Lastly, the EES opens the possibility to use new technologies for the border crossings of short stay travellers. Use of these technologies should take into account the risks their use entail and their alleged dependability in terms of the fundamental rights of the persons concerned and this regardless of the situation of the travellers.**

Amendment 28
Marie-Christine Vergiat

Proposal for a regulation
Recital 6

Text proposed by the Commission

(6) ***During a period of six months after the EES has started operations,***

Amendment

deleted

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.

Or. fr

Amendment 29
Notis Marias

Proposal for a regulation
Recital 6

Text proposed by the Commission

(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

Amendment

(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.

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 **logically** be recorded into the EES when exiting the territory of the Member States.

Or. el

Amendment 30
Eleftherios Synadinos

Proposal for a regulation
Recital 7

Text proposed by the Commission

(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 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.

Amendment

(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 borders, Member States should be able to **make a reasoned decision** 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 **a level of security and integrity, equivalent or superior to previous border control procedures** is ensured.

Or. el

Amendment 31
Notis Marias

Proposal for a regulation
Recital 7

Text proposed by the Commission

(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 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.

Amendment

(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 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 **and in every other case**, 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.

Or. el

Amendment 32
Eleftherios Synadinos

Proposal for a regulation
Recital 8

Text proposed by the Commission

(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

Amendment

(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 **in real time and in suitable form** so **that they can be sure of taking the correct** 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 **vulnerable persons** should be placed in a position that should enable

protection.

them to identify persons *possibly posing a threat to law and order or who may be in need of* protection.

Or. el

Amendment 33
Marie-Christine Vergiat

Proposal for a regulation
Recital 8

Text proposed by the Commission

(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.

Amendment

(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 particularly unaccompanied minors*, and should be placed in a position that should enable them to identify persons needing protection *and ensure that human rights are respected when borders are being crossed*.

Or. fr

Amendment 34
Eleftherios Synadinos

Proposal for a regulation
Recital 9

Text proposed by the Commission

(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.

Amendment

(9) Member States should also be able to establish national facilitation programmes on a voluntary basis to allow ***entry for*** third country nationals ***who have undergone a comparable level of preliminary vetting***. When using such national facilitation programmes, it should be ensured that they are established in a harmonised way and that the ***highest*** level of security is guaranteed.

Or. el

Amendment 35
Notis Marias

Proposal for a regulation
Recital 9

Text proposed by the Commission

(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.

Amendment

(9) Member States should also be able to establish national facilitation programmes 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.

Or. el

Amendment 36
Marie-Christine Vergiat

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) This Regulation is without prejudice to the application of Directive

Amendment

deleted

2004/38/EC of the European Parliament and of the Council¹⁰.

¹⁰ **Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJ L 158, 30.4.2004, p. 77).**

Or. fr

Amendment 37
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 1 – paragraph 1 – point 1 – introductory part

Text proposed by the Commission

(1) In Article 2, the following points 22, 23, 24 **and 25** are added:

Amendment

(1) In Article 2, the following points 22, 23, 24, **25 and 25a** are added:

Or. en

Amendment 38
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 1
Regulation (EU) 2016/399
Article 2 – point 22

Text proposed by the Commission

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

Amendment

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) **the main aim of which is** to register entry and exit data and refusal of entry data of third country nationals

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 the secondary and exceptional aim of which is to determine the conditions in which the enforcement authorities appointed by the Member States and the European Police Office (Europol) can access and consult the EES*;

Or. fr

Amendment 39
Jan Philipp Albrecht

Proposal for a regulation
Article 1 – paragraph 1 – point 1
Regulation (EU) 2016/399
Article 2 – point 22

Text proposed by the Commission

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*;

Amendment

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 of third country nationals crossing the external borders of the Member States of the European Union and ;

Or. en

Amendment 40
Agustín Díaz de Mera García Consuegra

Proposal for a regulation
Article 1 – paragraph 1 – point 1
Regulation (EU) 2016/399
Article 2 – point 25 a (new)

Text proposed by the Commission

Amendment

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.*

Or. en

Amendment 41
Maria Grapini

Proposal for a regulation

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

Regulation (EU) 2016/399

Article 6 – paragraph 1 – introductory part

Present text

"(1) For intended stays on the territory of the Member States of a duration of no more than 90 days in any 180-day period, which entails considering the 180-day period preceding each day of stay, the entry conditions for third-country nationals shall be the following:"

Amendment

(1a) *Article 6(1) is replaced by the following:*

"(1) For intended stays on the territory of the Member States of a duration of no more than 90 days in any 180-day period ***on the territory of Member States which apply the provisions of Title III of Regulation (EU) 399/2016 and of Member States which do not apply Title III of Regulation (EU) 399/2016***, which entails considering the 180-day period preceding each day of stay, the entry conditions for third-country nationals shall be the following:"

Or. ro

(<http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32016R0399>)

Amendment 42
Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 2

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EN

Regulation (EU) 2016/399
Article 6a – paragraph 1 – introductory part

Text proposed by the Commission

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)]:

Amendment

1. Data on entry and exit of the following categories of persons shall be entered into the EES in accordance with Articles 14, 17 and 18 of [Regulation establishing the Entry/Exit System (EES)]:

Or. fr

Amendment 43
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 2
Regulation (EU) 2016/399
Article 6a – paragraph 1 – point a

Text proposed by the Commission

(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];***

Amendment

(a) third country nationals admitted for a short stay pursuant to Article 6(1);

Or. fr

Amendment 44
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 2
Regulation (EU) 2016/399
Article 6a – paragraph 1 – point b

Text proposed by the Commission

(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;***

Amendment

deleted

Amendment 45
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 2
Regulation (EU) 2016/399
Article 6a – paragraph 1 – point c

Text proposed by the Commission

Amendment

(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.* *deleted*

Amendment 46
Kinga Gál

Proposal for a regulation
Article 1 – paragraph 1 – point 2 (new)
Regulation (EU) 2016/399
Article 6a - paragraph 1 - point c a (new)

Text proposed by the Commission

Amendment

(ca) *holders of residence permits;*

Amendment 47
Kinga Gál

Proposal for a regulation
Article 1 – paragraph 1 – point 2 (new)
Regulation (EU) 2016/399
Article 6a - paragraph 1 - point c b (new)

Text proposed by the Commission

Amendment

(cb) holders of long-stay visas;

Or. en

Amendment 48

Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2016/399

Article 6a – paragraph 2

Text proposed by the Commission

Amendment

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)].

2. Data on third country nationals whose entry for a short stay 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)].

Or. fr

Amendment 49

Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2016/399

Article 6a – paragraph 3 – subparagraph 1 – point -a (new)

Text proposed by the Commission

Amendment

(-a) minors under the age of 16

Or. fr

Amendment 50

Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2016/399

Article 6a – paragraph 3 – subparagraph 1 – point -a a (new)

Text proposed by the Commission

Amendment

(-aa) persons applying for international protection;

Or. fr

Amendment 51

Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2016/399

Article 6a – paragraph 3 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) 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; ***deleted***

Or. fr

Amendment 52

Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2016/399

Article 6a – paragraph 3 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(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 ***deleted***

residence card referred to in Directive 2004/38/EC;

Or. fr

Amendment 53
Kinga Gál

Proposal for a regulation
Article 1 – paragraph 1 – point 2
Regulation (EU) 2016/399
Article 6a – paragraph 3 – point b

Text proposed by the Commission

Amendment

(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;

deleted

Or. en

Amendment 54
Maria Grapini

Proposal for a regulation
Article 1 – paragraph 1 – point 2
Regulation (EU) 399/2016
Article 6a – paragraph 3 – point (d) – point (v)

Text proposed by the Commission

Amendment

(v) rescue services, police, fire brigades acting in emergency situation and border guards in accordance with point 7 of Annex VII;

(v) **members of the** rescue services, police, fire brigades acting in emergency situation and border guards in accordance with point 7 of Annex VII;

Or. ro

Amendment 55

Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2016/399

Article 6a – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

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. **deleted**

Or. fr

Amendment 56

Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b – point i

Regulation (EU) 2016/399

Article 8 – paragraph 3 – point a – subpoint -i – subparagraph 3

Text proposed by the Commission

Amendment

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. **deleted**

Or. fr

Amendment 57

Kinga Gál

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b – point i

Regulation (EU) 2016/399

Article 8 – paragraph 3 – point a – point i – subparagraph 3

Text proposed by the Commission

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.

Amendment

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, **whenever necessary**, 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.

Or. en

Amendment 58

Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b – point i

Regulation (EU) 2016/399

Article 8 – paragraph 3 – point a – subpoint -ii – subparagraph 2

Text proposed by the Commission

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

Amendment

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 verification of the information exclusively on stolen, misappropriated, lost and invalidated documents.[²¹]

documents.[²¹]

²¹ These paragraphs may require further adjustments after the adoption of COM's proposal (2015)670/2

²¹ These paragraphs may require further adjustments after the adoption of COM's proposal (2015)670/2

Or. fr

Amendment 59
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 3 – point b – point i
Regulation (EU) 2016/399
Article 8 – paragraph 3 – point a – subpoint iii

Text proposed by the Commission

Amendment

(iii) 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)]."

deleted

Or. fr

Amendment 60
Jan Philipp Albrecht

Proposal for a regulation
Article 1 – paragraph 1 – point 3 – point b – point i
Regulation (EU) 2016/399
Article 8 – paragraph 3 – point a – point iii

Text proposed by the Commission

Amendment

*(iii) for persons whose entry **or whose refusal of entry** is subject to a registration in the EES pursuant to Article 6a of this*

(iii) for persons whose entry is subject to a registration in the EES pursuant to Article 6a of this Regulation, a verification

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)].

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)].

Or. en

Amendment 61
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 3 – point b – point ii
Regulation (EU) 2016/399
Article 8 – paragraph 3 – point a – subpoint iiiia (new)

Text proposed by the Commission

Amendment

(ii) *the following point (a)(iii a) is inserted after point (a)(iii):* **deleted**

"(iii a) 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 of [Regulation establishing the Entry/Exit System (EES)]."

Or. fr

Amendment 62
Jan Philipp Albrecht

Proposal for a regulation
Article 1 – paragraph 1 – point 3 – point b – point ii

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Regulation (EU) 2016/399
Article 8 – paragraph 3 – point a – point iii a (new)

Text proposed by the Commission

(iii a) 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 of [Regulation establishing the Entry/Exit System (EES)].

Amendment

(iii a) for persons whose 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 of [Regulation establishing the Entry/Exit System (EES)].

Or. en

Amendment 63
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 3 – point b – point iii
Regulation (EU) 2016/399
Article 8 – paragraph 3 – point b

Text proposed by the Commission

(iii) point (b) is replaced by the following:

"(b) 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 Parliament and of the

Amendment

deleted

Council²²"

²² *Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation).*"

Or. fr

Amendment 64
Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b – point iv

Regulation (EU) 2016/399

Article 8 – paragraph 3 – point g – subpoint i

Text proposed by the Commission

"(i) 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 database on stolen and lost travel documents; and national databases containing information on stolen, misappropriated, lost and invalidated travel documents.^[23] ***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***

Amendment

"(i) 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 database on stolen and lost travel documents; and national databases containing information on stolen, misappropriated, lost and invalidated travel documents.

facial image of the concerned third country national .”

²³ This conditions is foreseen in the proposal (COM(2015)670/2) amending Article 7 of the SBC 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 require adjustments.

Or. fr

Amendment 65
Kinga Gál

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b – point iv

Regulation (EU) 2016/399

Article 8 – paragraph 3 – point g – point i

Text proposed by the Commission

(i) 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 database on stolen and lost travel documents; and national databases containing information on stolen, misappropriated, lost and invalidated travel documents.^[23] 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

Amendment

(i) 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 database on stolen and lost travel documents; and national databases containing information on stolen, misappropriated, lost and invalidated travel documents.^[23] 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, **whenever**

the facial image recorded in the chip, by comparing electronically this image with the live facial image of the concerned third country national .

necessary, 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 .

²³ This conditions is foreseen in the proposal (COM(2015)670/2) amending Article 7 of the SBC 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 require adjustments.

²³ This conditions is foreseen in the proposal (COM(2015)670/2) amending Article 7 of the SBC 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 require adjustments.

Or. en

Amendment 66 **Marie-Christine Vergiat**

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b – point vii

Regulation (EU) 2016/399

Article 8 – paragraph 3 – point i

Text proposed by the Commission

Amendment

(vii) point (i) is replaced by the following:

deleted

"(d) 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)]."

Or. fr

Amendment 67 **Marie-Christine Vergiat**

Proposal for a regulation

Article 1 – paragraph 1 – point 3 – point b – point viii

Regulation (EU) 2016/399

Article 8 – paragraph 9

Text proposed by the Commission

Amendment

9. 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),.***'';

9. The border guard shall inform the third country national of the maximum number of days of the authorised short stay;

Or. fr

Amendment 68

Tanja Fajon, Maria Grapini

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Regulation (EU) 2016/399

Article 8a

Text proposed by the Commission

Amendment

[...]

deleted

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. en

Justification

The provisions in this article are outside of the scope (Article 2) of the EES as proposed by the Regulation establishing the Entry/Exit System (EES) which does not include Union citizens or categories referred to in paragraphs 3 and 4. This paragraph should therefore be deleted.

Amendment 69
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 4
Regulation (EU) 2016/399
Article 8a – paragraph 1 – point c

Text proposed by the Commission

Amendment

(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; **deleted**

Or. fr

Amendment 70
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 4
Regulation (EU) 2016/399
Article 8a – paragraph 1 – point d

Text proposed by the Commission

Amendment

(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. **deleted**

Or. fr

Amendment 71
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 4
Regulation (EU) 2016/399
Article 8 – paragraph 2 – point c – subpoint ii

Text proposed by the Commission

(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**.

Amendment

(ii) 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**;

Or. fr

Amendment 72

Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 4

Regulation (EU) 2016/399

Article 8a – paragraph 3

Text proposed by the Commission

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.[²⁴]

²⁴ A similar conditions is foreseen in the

Amendment

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 internal security **or** public policy or a threat to public health, including by consulting the relevant Union and national databases, in particular the Schengen Information System.[²⁴]

²⁴ 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.

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.

Or. fr

Amendment 73
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 4
Regulation (EU) 2016/399
Article 8a – paragraph 5 – point b

Text proposed by the Commission

(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;

Amendment

(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 internal security *or* public policy or a threat to public health;

Or. fr

Amendment 74
Maria Grapini

Proposal for a regulation
Article 1 – paragraph 1 – point 4
Regulation (EU) 2016/399
Article 8a - paragraph 6

Text proposed by the Commission

6. Without prejudice to paragraph 4, the border guard supervising the border

Amendment

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.

crossing may decide to refer persons using the automated border control system to a border guard based on other reasons, ***which shall be brought to the attention of the person being checked.***

Or. ro

Amendment 75
Maria Grapini

Proposal for a regulation
Article 1 – paragraph 1 – point 4
Regulation (EU) 2016/399
Article 8a - paragraph 7

Text proposed by the Commission

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."

Amendment

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, ***verifying and reporting*** any inappropriate, fraudulent or abnormal use of the system."

Or. ro

Amendment 76
Tanja Fajon, Maria Grapini

Proposal for a regulation
Article 1 – paragraph 1 – point 5
Regulation (EU) 2016/399
Article 8b

Text proposed by the Commission

[...]

Amendment

deleted

(This amendment applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. en

Justification

The provisions in this article are outside of the scope (Article 2) of the EES as proposed by the Regulation establishing the Entry/Exit System (EES) which does not include third country nationals who hold a residence permit. This paragraph should therefore be deleted.

Amendment 77 **Marie-Christine Vergiat**

Proposal for a regulation
Article 1 – paragraph 1 – point 5
Regulation (EU) 2016/399
Article 8b – paragraph 1 – point d

Text proposed by the Commission

(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.**

Amendment

(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;

Or. fr

Amendment 78 **Marie-Christine Vergiat**

Proposal for a regulation
Article 1 – paragraph 1 – point 5
Regulation (EU) 2016/399
Article 8b – paragraph 4 – point b

Text proposed by the Commission

(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 or to public health;

Amendment

(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 internal security **or** public policy or to public health;

Amendment 79
Jan Philipp Albrecht

Proposal for a regulation
Article 1 – paragraph 1 – point 6
Regulation (EU) 2016/399
Article 8c

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 80
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 6
Regulation (EU) 2016/399
Article 8c – paragraph 1 – point b

Text proposed by the Commission

Amendment

(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;

Amendment 81
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 6

Regulation (EU) 2016/399
Article 8c – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

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:

deleted

(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.

(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 establishing the Entry/Exit System (EES)], the VIS shall be consulted in accordance with Article 19a of Regulation (EC) No 767/2008.

Or. fr

Amendment 82
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 6
Regulation (EU) 2016/399
Article 8 quater – paragraphe 4 – point b – sous-point b

Text proposed by the Commission

Amendment

(b) that the live facial image of the person concerned corresponds to the facial image that was collected through the self service system; *deleted*

Or. fr

Amendment 83

Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Règlement (UE) 2016/399

Article 8c – paragraph 5

Text proposed by the Commission

Amendment

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)]. *deleted*

Or. fr

Amendment 84

Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) 2016/399

Article 8d – paragraph 1 – point b

Text proposed by the Commission

Amendment

(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/her live facial image;

deleted

Or. fr

Amendment 85

Jussi Halla-aho

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) 2016/399

Article 8d – paragraph 2 a (new)

Text proposed by the Commission

Amendment

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 States having concluded an agreement with that Member State as referred to in Article 8e(4).

Or. en

Amendment 86
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 7
Regulation (EU) 2016/399
Article 8d – paragraph 4 – point c

Text proposed by the Commission

(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*;

Amendment

(c) 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 internal security *or* public policy or to public health;

Or. fr

Amendment 87
Maria Grapini

Proposal for a regulation
Article 1 – paragraph 1 – point 8
Regulation (EU) 2016/399
Article 8e – paragraph 2 – subparagraph 1 – point c – point iii

Text proposed by the Commission

(iii) the applicant proves the need for or justifies the intention to travel frequently or regularly;

Amendment

(iii) the applicant proves *by means of documentation* the need for or justifies the intention to travel frequently or regularly;

Or. ro

Amendment 88
Maria Grapini

Proposal for a regulation
Article 1 – paragraph 1 – point 8
Regulation (EU) 2016/399

Article 8e – paragraph 2 – subparagraph 1 – point c – point v

Text proposed by the Commission

(v) the applicant justifies the purpose and conditions of the intended stays;

Amendment

(v) the applicant justifies **by means of documentation** the purpose and conditions of the intended stays;

Or. ro

Amendment 89
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 8
Regulation (EU) 2016/399
Article 8e – paragraph 2 – point c – point viii

Text proposed by the Commission

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.

Amendment

viii) the applicant is not considered to be a threat to public policy, internal security **or public health, and** in particular where no alert has been issued in Member States' national databases for the purpose of refusing entry on the same grounds.

Or. fr

Amendment 90
Tanja Fajon, Maria Grapini

Proposal for a regulation
Article 1 – paragraph 1 – point 8
Regulation (EU) 2016/399
Article 8e – paragraph 2 – point d

Text proposed by the Commission

(d) access to the programme shall be granted for a maximum of **one year**;

Amendment

(d) access to the programme shall be granted for a maximum of **five years**;

Or. en

Amendment 91
Tanja Fajon, Maria Grapini

Proposal for a regulation
Article 1 – paragraph 1 – point 8
Regulation (EU) 2016/399
Article 8e – paragraph 2 – point e

Text proposed by the Commission

(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);

Amendment

(e) the Member State shall reassess every **two years** 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);

Or. en

Amendment 92
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 8
Regulation (EU) 2016/399
Article 8e – paragraph 2 – subparagraph 2

Text proposed by the Commission

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.***

Amendment

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 to the security of the Member State(s).

Or. fr

Amendment 93
Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EU) 2016/399

Article 8e – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

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.

deleted

Or. fr

Amendment 94

Jussi Halla-aho

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EU) 2016/399

Article 8e – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Border guards may verify third-country nationals benefiting from the programme 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 passenger's individual EES file with the passenger. Full verification shall be carried out at random and on the basis of a risk analysis.

Justification

To ensure facilitation of border crossings without risking security, it should be possible to carry out bearer verification of pre-vetted persons by a visual check (comparing two pictures against bearer) without capturing a life facial image.

Amendment 95

Tanja Fajon, Maria Grapini

Proposal for a regulation

Article 1 – paragraph 1 – point 8

Regulation (EU) 2016/399

Article 8e – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. An adequate level of security shall be established between national facilitation programmes and the EES following a proper information security risk assessment. The data shall be subject to the conditions set out in Regulation xxx/xxx [Regulation establishing the Entry/Exit System (EES)].

Amendment 96

Jan Philipp Albrecht

Proposal for a regulation

Article 1 – paragraph 1 – point 9 – point b

Regulation (EU) 2016/399

Article 9 – paragraph 3a – point i

Text proposed by the Commission

Amendment

(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 temporally stored in the National Uniform Interface as

(i) by way of derogation from Article 6a of this Regulation, the data referred to in Articles 14, 17 and 18 of [Regulation establishing the Entry/Exit System (EES)] shall be temporally stored in the National Uniform Interface as defined in Article 6 of

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 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;

[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 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;

Or. en

Amendment 97
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 9 – point b
Regulation (EU) 2016/399
Article 9 – paragraph 3 a – point ii

Text proposed by the Commission

Amendment

(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 visa shall be carried out by consulting directly the VIS in accordance with Article 18 of Regulation (EC) No 767/2008."

deleted

Or. fr

Amendment 98
Jan Philipp Albrecht

Proposal for a regulation
Article 1 – paragraph 1 – point 11 – introductory part

Regulation (EU) 2016/399
Article 11

Text proposed by the Commission

Amendment

(11) Article 11 is **replaced by the following:**

(11) Article 11 is **deleted.**

Or. en

Amendment 99
Marie-Christine Vergiat

Proposal for a regulation
Article 1 – paragraph 1 – point 12
Regulation (EU) 2016/399
Article 12

Text proposed by the Commission

Amendment

(12) **Article 12 is replaced by the following:**

deleted

"Article 12

Presumptions as regards fulfilment of conditions of duration of stay

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 longer fulfils, the conditions relating to duration of stay on the territory of the Member States.

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.

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 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)].

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.”

Or. fr

Amendment 100
Jan Philipp Albrecht

Proposal for a regulation
Article 1 – paragraph 1 – point 12
Regulation (EU) 2016/399
Article 12 – paragraph 2

Text proposed by the Commission

Amendment

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.

2. This presumption shall not apply to a *third-country* national who *is able to explain*, by any means *and in a credible way*, 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.

Or. en

Amendment 101
Jan Philipp Albrecht

Proposal for a regulation
Article 1 – paragraph 1 – point 12
Regulation (EU) 2016/399
Article 12 – paragraph 3

Text proposed by the Commission

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 stay visa, that he or she has respected the conditions relating to the duration of a short stay.

Amendment

The presumption referred to in paragraph 1 may be rebutted where the person provides, by any means, credible *explanation or* 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 stay visa, that he or she has respected the conditions relating to the duration of a short stay.

Or. en

Amendment 102
Jan Philipp Albrecht

Proposal for a regulation
Article 1 – paragraph 1 – point 14
Regulation (EU) 2016/399
Article 14

Text proposed by the Commission

Amendment

(14) Article 14 is amended as follows: *deleted*

(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)].’

‘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.’

Or. en

Amendment 103

Marie-Christine Vergiat

Proposal for a regulation

Article 1 – paragraph 1 – point 14 – point b

Regulation (EU) 2016/399

Article 14 – paragraph 3 – subparagraph 3

Text proposed by the Commission

Amendment

"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

"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."

Member State which refused entry. *It must be possible for the person concerned to lodge a suspensive appeal at the earliest opportunity, while pending the correction referred to above it must not be possible for any measure to be taken against the person concerned based on the information being questioned.*"

Or. fr

Amendment 104
Jan Philipp Albrecht

Proposal for a regulation
Article 1 – paragraph 1 – point 15
Regulation (EU) 2016/399
Annex III, IV and V

Text proposed by the Commission

(15) *Annexes III, IV and V are* amended in accordance with the Annex to this Regulation

Amendment

(15) *Annex III is* amended in accordance with the Annex to this Regulation

Or. en

Amendment 105
Jan Philipp Albrecht

Proposal for a regulation
Article 1 – paragraph 1 – point 16
Regulation (EU) 2016/399
Annexes IV and VIII

Text proposed by the Commission

(16) *Annex VIII is* deleted.

Amendment

(16) *Annexes IV and VIII are* deleted.

Or. en

Amendment 106
Jan Philipp Albrecht

Proposal for a regulation
Annex I – paragraph 1 – point 2
Regulation (EU) 2016/399
Annex IV

Text proposed by the Commission

Amendment

2. Annex IV is amended as follows: *deleted*

(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.’

‘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).’

‘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.’

Or. en

Amendment 107
Jan Philipp Albrecht

Proposal for a regulation
Annex I – paragraph 1 – point 3
Regulation (EU) 2016/399
Annex V – part A

Text proposed by the Commission

Amendment

3. Annex V part A is amended as follows: **deleted**

(a) point 1(b) is replaced by the following:

‘(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;’

‘(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 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;

'(e) The practical arrangements for stamping are set out in Annex IV.'

Or. en