



2020/0278(COD)

16.11.2021

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council introducing a screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817

(COM(2020)0612 – C9-0307/2020 – 2020/0278(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Birgit Sippel

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ▬ symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council introducing a screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817 (COM(2020)0612 – C9-0307/2020 – 2020/0278(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0612),
 - having regard to Article 294(2) and Article 77(2) points (b) and (d) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0307/2020),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Hungarian Parliament and the Italian Senate asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0000/2021),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Title

Text proposed by the Commission

Amendment

Proposal for a
REGULATION OF THE EUROPEAN

Proposal for a
REGULATION OF THE EUROPEAN

PARLIAMENT AND OF THE COUNCIL
introducing a screening of *third country*
nationals at the external borders and
amending *Regulations (EC) No 767/2008,*
(EU) 2017/2226, (EU) 2018/1240 and
(EU) 2019/817

PARLIAMENT AND OF THE COUNCIL
introducing a screening of *third-country*
nationals at the external borders and
amending *Regulation (EU) 2019/817*

Or. en

Amendment 2

Proposal for a regulation Recital 2

Text proposed by the Commission

(2) The rules governing border control of persons crossing the external borders of the Member States of the Union are laid down in Regulation (EU) 2016/399 of the European Parliament and of the Council (Schengen Borders Code)²¹ as adopted under Article 77(2)(b) of the Treaty on the Functioning of the European Union (TFEU). To further develop the Union's policy with a view to carrying out checks on persons and efficiently monitoring the crossing of external borders referred to in the first paragraph of Article 77 TFEU, additional measures should address situations where third-country nationals **manage to avoid** border checks at the external borders, or where third-country nationals are disembarked following search and rescue operations as well as where third-country nationals request international protection at a border crossing point without fulfilling entry conditions. The present regulation complements and specifies Regulation (EU) 2016/399 with regard to those three sets of situations.

²¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March on a Union Code on the rules

Amendment

(2) The rules governing border control of persons crossing the external borders of the Member States of the Union are laid down in Regulation (EU) 2016/399 of the European Parliament and of the Council (Schengen Borders Code)²¹ as adopted under Article 77(2)(b) of the Treaty on the Functioning of the European Union (TFEU). To further develop the Union's policy with a view to carrying out checks on persons and efficiently monitoring the crossing of external borders referred to in the first paragraph of Article 77 TFEU, additional measures should address situations where third-country nationals **have not been subject to** border checks at the external borders, or where third-country nationals are disembarked following search and rescue operations as well as where third-country nationals request international protection at a border crossing point without fulfilling entry conditions. The present Regulation complements and specifies Regulation (EU) 2016/399 with regard to those three sets of situations.

²¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March on a Union Code on the rules

governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p.1.

governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p.1.

Or. en

Amendment 3

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) It is essential to ensure that in those three sets of situations, the third country nationals are screened, in order to facilitate a proper identification and to ***allow for them being*** referred efficiently to the ***relevant procedures*** which, depending on the circumstances, ***can be procedures*** for international protection ***or*** procedures respecting Directive 2008/115/EC of the European Parliament and of the Council (the “Return Directive”)²². The screening should seamlessly complement the checks carried out at the external border ***or compensate for the fact that those checks have been circumvented by the third country nationals when crossing the external border.***

²² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, 24.12.2008, p. 98.

Amendment

(3) It is essential to ensure that in those three sets of situations, the third-country nationals are screened, in order to facilitate a proper identification and to ***enable them to be*** referred efficiently to the ***correct procedure*** which, depending on the circumstances, ***might be the common procedure*** for international protection ***as laid down in Regulation (EU) XXXX/202X of the European Parliament and of the Council [Asylum Procedures Regulation]***, the procedures respecting Directive 2008/115/EC of the European Parliament and of the Council (the “Return Directive”)²², ***or a refusal of entry in accordance with Regulation (EU) 2016/399 without prejudice to Member States’ discretion in accordance with Article 6(5) of Regulation (EU) 2016/399.*** The screening should seamlessly complement the checks carried out at the external border ***and be carried out in parallel to applications for international protection that have already been made.***

²² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, 24.12.2008, p. 98.

Amendment 4

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) Border control is in the interest ***not only*** of the Member States at whose external borders it is carried out but of all Member States ***which have abolished internal border control***. Border control should help to ***combat illegal*** migration and trafficking of human beings and to prevent any threat to the Member States' internal security, public policy, public health and international relations. As such, measures taken at the external borders are important elements of a comprehensive approach to migration, ***allowing to address the challenge of mixed flows of migrants and persons seeking international protection***.

Amendment

(4) Border control is ***not only*** in the interest of the Member States at whose external borders it is carried out but of all Member States. Border control should help to ***reduce irregular*** migration and ***to combat the*** trafficking of human beings and to prevent any threat to the Member States' internal security, public policy, public health and international relations. ***At the same time, when carrying out border control, Member States should act in compliance with relevant Union and international law, including the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967 ("the Geneva Convention"), obligations related to international protection, in particular the principle of non-refoulement, and fundamental rights.*** As such, measures taken at the external borders are important elements of a comprehensive approach to migration.

Amendment 5

Proposal for a regulation

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) As part of a comprehensive approach to migration and in accordance with Article 80 TFEU, Union acts should,

whenever necessary, contain appropriate measures to give effect to the principle of solidarity.

Or. en

Amendment 6

Proposal for a regulation

Recital 5

Text proposed by the Commission

(5) In accordance with Article 2 of Regulation (EU) 2016/399, border control consists of border checks carried out at the border crossing points and border surveillance, which is carried out between the border crossing points, ***in order to prevent third-country nationals from circumventing border checks.*** In accordance with Article 13 of Regulation (EU) 2016/399 a person who has crossed a border in an unauthorised manner and who has no right to stay on the territory of the Member State concerned shall be apprehended and made subject to procedures respecting Directive 2008/115/EC. ***In accordance with*** Article 3 of Regulation (EU) 2016/399, border control should be carried out without prejudice to the rights of refugees and persons requesting international protection, in particular as regards non-refoulement.

Amendment

(5) In accordance with Article 2 of Regulation (EU) 2016/399, border control consists of border checks carried out at the border crossing points and border surveillance, which is carried out between the border crossing points. In accordance with Article 13 of Regulation (EU) 2016/399, a person who has crossed a border in an unauthorised manner and who has no right to stay on the territory of the Member State concerned shall be apprehended and made subject to procedures respecting Directive 2008/115/EC. ***That is, however, without prejudice to*** Article 3 of Regulation (EU) 2016/399, ***according to which*** border control should be carried out without prejudice to the rights of refugees and persons requesting international protection, in particular as regards non-refoulement.

Or. en

Amendment 7

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) Border guards are often ***confronted***

Amendment

(6) Border guards are often ***faced*** with

with third-country nationals who are requesting international protection **without travel documents**, both following apprehension during border surveillance and during checks at the border crossing points. Moreover, at some border sections the border guards **are confronted** with large numbers of arrivals at the same time. In such circumstances, it is particularly **difficult** to ensure that **all** relevant databases are consulted and to **immediately** determine **the appropriate asylum or return** procedure.

third-country nationals **who have no travel documents and** who are requesting international protection, both following apprehension during border surveillance and during checks at the border crossing points. Moreover, at some border sections the border guards **can be faced** with large numbers of arrivals at the same time. In such circumstances, it is particularly **important** to ensure that relevant databases are consulted and to determine **the correct** procedure **as quickly as possible**.

Or. en

Amendment 8

Proposal for a regulation Recital 7

Text proposed by the Commission

(7) In order to ensure a **swift** handling of third-country nationals who **try to avoid** border checks or who request international protection at a border crossing point without fulfilling the entry conditions or who are disembarked following a search and rescue operation, it is necessary to provide a stronger framework for cooperation between the different national authorities responsible for border control, the protection of public health, the examination of the need for international protection and the application of return procedures.

Amendment

(7) In order to ensure a **better** handling of third-country nationals who **have not been subject to** border checks or who request international protection at a border crossing point without fulfilling the entry conditions or who are disembarked following a search and rescue operation, it is necessary to provide a stronger framework for cooperation between the different national authorities responsible for border control, the protection of public health, **child protection**, the examination of the need for international protection and the application of return procedures.

Or. en

Amendment 9

Proposal for a regulation Recital 8

Text proposed by the Commission

(8) In particular, the screening should help to ensure that the third-country nationals concerned are referred to the appropriate procedures at the earliest stage possible and that the procedures are continued without interruption and delay. ***At the same time, the screening should help to counter the practice whereby some applicants for international protection abscond after having been authorised to enter the territory of a Member State based on their request for international protection, in order to pursue such requests in another Member State or not at all.***

Amendment

(8) In particular, the screening should help to ensure that the third-country nationals concerned are referred to the appropriate procedures at the earliest stage possible and that the procedures are continued without interruption and delay.

Or. en

Amendment 10

Proposal for a regulation
Recital 9

Text proposed by the Commission

(9) With regard to those persons who apply for international protection, the screening should ***be followed by an examination of the need for international protection. It should allow to collect and share with the authorities competent for that examination*** any information that is relevant ***for*** the latter to identify the appropriate procedure for the examination of the application, ***thus speeding up that examination***. The screening should also ***ensure that*** persons with special needs ***are identified*** at an early stage, so that any special reception and procedural needs are fully taken into account in the determination of and the pursuit of the applicable procedure.

Amendment

(9) With regard to those persons who apply for international protection, the screening should ***contribute to facilitating the initial stages of the*** examination of the need for international protection. It should ***enable the screening authorities to*** share with the ***competent*** authorities ***for examining an application for international protection*** any information that is relevant, ***without assessing the value of that information, to allow*** the latter to identify the appropriate procedure for the examination of the application. The screening should also ***contribute to identifying vulnerable persons and*** persons with special needs at an early stage, so that any special reception and procedural needs are fully taken into account in the determination of and the

pursuit of the applicable procedure.

Or. en

Amendment 11

Proposal for a regulation

Recital 11

Text proposed by the Commission

(11) This Regulation should apply to third-country nationals and stateless persons who are apprehended in connection with the **unauthorised** crossings of the external border of a Member State by land, sea or air, except third country nationals for whom the Member State is not required to take the biometric data pursuant to Article 14(1) and (3) of the Eurodac Regulation for reasons other than their age, as well as to persons who have been disembarked following search and rescue operations, regardless of whether they apply **or not** for international protection. This Regulation should also apply to those who seek international protection at the border crossing points or in transit zones without fulfilling the entry conditions

Amendment

(11) This Regulation should apply to third-country nationals and stateless persons who are apprehended in connection with the **irregular** crossings of the external border of a Member State by land, sea or air, except third-country nationals for whom the Member State is not required to take the biometric data pursuant to Article 14(1) and (3) of the Eurodac Regulation for reasons other than their age, as well as to persons who have been disembarked following search and rescue operations, regardless of whether they apply for international protection. This Regulation should also apply to those who seek international protection at the border crossing points or in transit zones without fulfilling the entry conditions.

Or. en

Amendment 12

Proposal for a regulation

Recital 12

Text proposed by the Commission

(12) The screening should be conducted at or in proximity to the external **border, before** the persons concerned are **authorised to enter the territory. The** Member States **should** apply **measures**

Amendment

(12) **For those persons seeking international protection, the screening should take place on the territory of the Member States in line with rules on asylum procedures.** The screening should

pursuant to national law to prevent the persons concerned from entering the territory during the screening. In individual cases, where required, this may include detention, subject to the national law regulating that matter.

be conducted at *any appropriate location within the territory of a Member State, taking into account geography and existing infrastructures, which might include a location at or in proximity to the external borders, in particular where* the persons concerned are *clearly not seeking international protection. This is without prejudice to the possibility for* Member States *to apply border procedures to certain applicants for international protection.* In individual cases, where required, this may include detention, subject to the *relevant Union and* national law regulating that matter.

Or. en

Amendment 13

Proposal for a regulation Recital 13

Text proposed by the Commission

(13) Wherever it becomes clear during the screening that a third-country national subject to it fulfils the conditions of Article 6 of Regulation (EU) 2016/399, the screening should end and the third-country national concerned should be authorised to enter the territory, without prejudice to the application of penalties as referred to in Article 5(3) of that regulation.

Amendment

(13) Wherever it becomes clear during the screening that a third-country national subject to it fulfils the conditions of Article 6 of Regulation (EU) 2016/399, the screening should end and, *if it is not already the case*, the third-country national concerned should be authorised to enter the territory, without prejudice to the application of penalties as referred to in Article 5(3) of that regulation.

Or. en

Amendment 14

Proposal for a regulation Recital 15

Text proposed by the Commission

(15) All persons subject to the screening should be submitted to checks in order to establish their identity and to ascertain that they do not pose a threat to internal security or public health. In the case of persons requesting international protection at border crossing points, the identity and security checks carried out in the context of border checks should be taken into account to avoid duplication.

Amendment

(15) All persons subject to the screening should be submitted to checks in order to **verify or** establish their identity and to ascertain that they do not pose a threat to internal security or public health. In the case of persons requesting international protection at border crossing points, the identity and security checks carried out in the context of border checks should be taken into account to avoid duplication.

Or. en

Amendment 15

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) On completion of the screening, the third-country nationals concerned should be referred to the **relevant** procedure to establish responsibility for examining an application **for and to assess** the need for international protection, or be made subject to procedures respecting Directive **2008/115** (return directive), as appropriate. The **relevant** information obtained during the screening should be provided to the competent authorities to support the further assessment of each individual case, in full respect of fundamental rights. The procedures established by Directive **2008/115** should start applying only after the screening has ended. **Article 26 and 27 of the Asylum Procedures Regulation should apply only after the screening has ended. This should be without prejudice to the fact that the** persons applying for international protection at the moment of apprehension, in the course of border control at the border crossing point or during the screening, should be considered

Amendment

(16) On completion of the screening, the third-country nationals concerned should be referred to the procedure to establish responsibility for examining an application for and to **assess** the need for international protection, or be made subject to procedures respecting Directive **2008/115/EC [Return Directive], or be refused entry in accordance with Regulation (EU) No 2016/399, without prejudice to Article 6(5) of Regulation (EU) 2016/399**, as appropriate. The information obtained during the screening should be provided to the **relevant** competent authorities to support the further assessment of each individual case, in full respect of fundamental rights. The procedures established by Directive **2008/115/EC** should start applying only after the screening has ended. Persons applying for international protection at the moment of apprehension, in the course of border control at the border crossing point or during the screening, should be

applicants.

considered applicants *for international protection to whom Regulation (EU) xxx/xxx [Asylum Procedure Regulation] and Directive (EU) xxx/xxx [Reception Conditions Directive] apply.*

Or. en

Amendment 16

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) The screening *could also be followed by relocation* under the mechanism for solidarity established by Regulation (EU) XXX/XXX [Asylum and Migration Management] where a Member State is contributing to solidarity *on a voluntary basis* or the applicants for international protection are not subject to the border procedure pursuant to Regulation (EU) No. XXX/XXX (Asylum Procedures Regulation), or under the mechanism addressing situations of crisis established by Regulation (EU) XXX/XXX [Regulation on situations of crisis].

Amendment

(17) *Member States are encouraged to relocate applicants for international protection swiftly and without undue delay after the screening, including, as a minimum,* under the mechanism for solidarity established by Regulation (EU) XXX/XXX [Asylum and Migration Management] where a Member State is contributing to solidarity or the applicants for international protection are not subject to the border procedure pursuant to Regulation (EU) XXX/XXX [Asylum Procedures Regulation], or under the mechanism addressing situations of crisis established by Regulation (EU) XXX/XXX [Regulation on situations of crisis].

Or. en

Amendment 17

Proposal for a regulation

Recital 18

Text proposed by the Commission

(18) *In accordance with Article 12 of Regulation (EU) 2016/399, the fulfilment of entry conditions and the authorisation*

Amendment

deleted

of entry are expressed in an entry stamp in a travel document. The absence of such entry stamp or the absence of a travel document may therefore be considered as an indication that the holder does not fulfil the entry conditions. With the start of the operation of the Entry/Exit System leading to substitution of the stamps with an entry in the electronic system, that presumption will become more reliable. Member States should therefore apply the screening to third-country nationals who are already within the territory and who are unable to prove that they fulfilled the conditions of entry into the territory of the Member States. The screening of such third-country nationals is necessary in order to compensate for the fact that they presumably managed to evade entry checks upon arrival in the Schengen area and therefore could have not been either refused entry or referred to the appropriate procedure following screening. Applying the screening could also help in ascertaining, through the consultation of the databases referred to in this Regulation, that the persons concerned do not pose a threat to internal security. By the end of the screening within the territory, the third-country nationals concerned should be subject to a return procedure or, where they apply for international protection, to the appropriate asylum procedure. Submitting the same third-country national to repeated screenings should be avoided to the utmost extent possible.

Or. en

Amendment 18

Proposal for a regulation Recital 19

Text proposed by the Commission

Amendment

(19) The screening should be completed as soon as possible, and should not exceed **5 days where it is conducted at the external border and 3 days where it is conducted within the territory of a Member State. Any extension of the 5 days' time limit should be reserved for exceptional situations at the external borders, where the capacities of the Member State to handle screenings are exceeded for reasons beyond its control such as crisis situations referred to in Article 1 of Regulation XXX/XXX [crisis proposal].**

(19) The screening should be completed as soon as possible, and should not exceed **five** days.

Or. en

Amendment 19

Proposal for a regulation Recital 20

Text proposed by the Commission

Amendment

(20) **The Member States should determine appropriate locations for the screening at or in proximity to the external border taking into account geography and existing infrastructures, ensuring that apprehended third-country nationals as well as those who present themselves at a border crossing point can be swiftly submitted to the screening. The tasks related to the screening may be carried out in hotspot areas as referred to in point (23) of Article 2 of Regulation (EU) 2019/1896 of the European Parliament and of the Council²³.**

deleted

²³ **Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard, OJ L 295,**

Amendment 20

Proposal for a regulation Recital 21

Text proposed by the Commission

(21) In order to achieve the objectives of the screening, close cooperation should be ensured between the competent national authorities referred to in Article 16 of **Regulation 2016/399**, those referred to in Article 5 of the [Asylum Procedures Regulation] as well as those responsible for carrying out return procedures respecting Directive **2008/115**. ***Child protection authorities should also be closely involved in the screening wherever necessary to ensure that the best interests of the child are duly taken into account throughout the screening.*** Member States should be allowed to avail themselves of the support of the relevant agencies, in particular the European Border and Coast Guard Agency and the [European Union Agency for Asylum], within the limits of their mandates. Member States should involve the national Rapporteurs for Anti-trafficking wherever the screening reveals facts relevant for trafficking in line with Directive 2011/36/EU of the European Parliament and of the Council²⁴ .

²⁴ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating

Amendment

(21) In order to achieve the objectives of the screening, close cooperation should be ensured between the competent national authorities referred to in Article 16 of **Regulation (EU) 2016/399**, those referred to in Article 5 of **Regulation (EU) ~~xxxx/xxxx~~** [Asylum Procedures Regulation] as well as those responsible for carrying out return procedures respecting Directive **2008/115/EC**. ***In that regard, it is important to avoid the duplication of the collection of personal data, the duplication of obligations on Member States and applicants for international protection regarding the procedures in place, and the duplication of rules concerning reception conditions and grounds on which persons might be detained.*** Member States should be allowed ***and are encouraged*** to avail themselves of the support of the relevant agencies, in particular the European Border and Coast Guard Agency and the [European Union Agency for Asylum], within the limits of their mandates. Member States should involve the national Rapporteurs for Anti-trafficking wherever the screening reveals facts relevant for trafficking in line with Directive 2011/36/EU of the European Parliament and of the Council²⁴ .

²⁴ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating

trafficking in human beings and protecting its victims, OJ L 101, 15.4.2011, p. 1.

trafficking in human beings and protecting its victims, OJ L 101, 15.4.2011, p. 1.

Or. en

Amendment 21

Proposal for a regulation Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) Child protection authorities should, wherever necessary, be closely involved in the screening to ensure that the best interests of the child are duly taken into account throughout the screening. A representative should be appointed to represent and assist the unaccompanied minor during the screening. Where applicable, this representative should be the same as the representative to be appointed in accordance with Article 23 of Directive (EU) XXX/XXX [Reception Conditions Directive].

Or. en

Amendment 22

Proposal for a regulation Recital 22

Text proposed by the Commission

Amendment

(22) When conducting the screening, the competent authorities should comply with the Charter of Fundamental Rights of the European Union and ensure the respect for human dignity and should not discriminate against persons on grounds of sex, racial, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinions,

(22) When conducting the screening, the competent authorities should comply with the Charter of Fundamental Rights of the European Union and ensure the respect for human dignity and should not discriminate against persons on grounds of sex, racial, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinions,

membership of a national minority, disability, age or sexual orientation. Particular attention should be paid to the best interests of the child.

membership of a national minority, disability, age or sexual orientation. Particular attention should be paid to the best interests of the child, ***bearing in mind that administrative detention for migration purposes can never be in the best interests of the child.***

Or. en

Amendment 23

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) In order to ensure compliance with EU and international law, including the Charter of Fundamental Rights, during the screening, each Member State should establish a monitoring mechanism and put in place adequate safeguards for the independence ***thereof***. The monitoring mechanism should cover in particular the respect for fundamental rights in relation to the screening, as well as the respect for the applicable ***national*** rules regarding detention and compliance with the principle of non-refoulement as referred to in Article 3(b) of Regulation (EU) 2016/399. The Fundamental Rights Agency should establish general guidance as to the establishment and the independent functioning of such monitoring mechanism. Member States should furthermore be allowed to request the support of the Fundamental Rights Agency for developing their national monitoring mechanism. Member States should also be allowed to seek advice from the Fundamental Rights Agency with regard to establishing the methodology for this monitoring mechanism and with regard to appropriate training measures. ***Member States should also be allowed to invite relevant and competent national,***

Amendment

(23) In order to ensure compliance with EU and international law, including the Charter of Fundamental Rights, ***upon irregular arrival at the EU's external borders***, during ***border surveillance***, the screening, ***the asylum procedure or the return procedure***, each Member State should establish a monitoring mechanism and put in place adequate safeguards for the independence of ***that mechanism, in particular by involving national human rights institutions, national ombudspersons, international organisations or relevant non-governmental organisations in the management and operation of the mechanism***. The monitoring mechanism should cover in particular the respect for fundamental rights in relation to ***border surveillance***, the screening, ***asylum and return procedures***, as well as the respect for the applicable rules regarding detention and compliance with the principle of non-refoulement as referred to in Article 3(b) of Regulation (EU) 2016/399. The Fundamental Rights Agency (***FRA***) should establish general guidance as to the establishment and the independent functioning of such monitoring mechanism. Member States should

international and non-governmental organisations and bodies to participate in the monitoring. The independent monitoring mechanism should be without prejudice to the monitoring of fundamental rights provided by the European Border and Coast Guard Agency's fundamental rights monitors provided for in Regulation (EU) 2019/1896. The Member States should investigate allegations of the breach of ***the*** fundamental rights during the screening, including by ensuring that complaints are dealt with expeditiously and in an appropriate ***way***.

furthermore be allowed to request the support of the ***FRA*** for developing their national monitoring mechanism. Member States should also be allowed to seek advice from the ***FRA*** with regard to establishing the methodology for this monitoring mechanism and with regard to appropriate training measures. The independent monitoring mechanism should be ***in addition and*** without prejudice to the monitoring of fundamental rights provided by the European Border and Coast Guard Agency's fundamental rights monitors provided for in Regulation (EU) 2019/1896, ***the monitoring mechanism for the purpose of monitoring the operational and technical application of the Common European Asylum System (CEAS) as set out in Article 14 of Regulation (EU) xxxx/xxxx [EU Asylum Agency Regulation] and monitoring carried out by existing national or international monitoring bodies.*** The Member States should investigate allegations of the breach of fundamental rights during ***border surveillance, the screening, asylum and return procedures,*** including by ensuring that complaints are dealt with ***promptly,*** expeditiously and ***capable of leading to the identification and sanction of those responsible*** in an appropriate ***manner.***

Or. en

Amendment 24

Proposal for a regulation Recital 24

Text proposed by the Commission

(24) By the end of the screening, the authorities responsible for the screening should fill in a de-briefing form. The form should be transmitted to the authorities examining applications for international protection or to the authorities competent

Amendment

(24) By the end of the screening, the authorities responsible for the screening should fill in a de-briefing form. The form should be transmitted to the authorities examining applications for international protection or to the authorities competent

for return – depending on whom the individual is referred to. ***In the former case, the authorities responsible for the screening should also indicate any elements which may seem to be relevant for determining whether the competent authorities should submit the application of the third-country national concerned to an accelerated examination procedure or to the border procedure.***

for return – depending on whom the individual is referred to, ***with a copy given to the third-country national concerned.***

Or. en

Amendment 25

Proposal for a regulation Recital 25

Text proposed by the Commission

Amendment

(25) The biometric data taken during the screening should, together with the data referred to in Articles [12, 13, 14 and 14a] of the Eurodac Regulation be transmitted to Eurodac by the competent authorities in accordance with the deadlines provided for in that Regulation.

deleted

Or. en

Amendment 26

Proposal for a regulation Recital 26

Text proposed by the Commission

Amendment

(26) A preliminary health examination should be carried out on all persons submitted to the screening at the external borders with a view to identifying persons in need of immediate care or requiring other measures to be taken, for instance isolation on public health grounds. The specific needs of minors and vulnerable

(26) A preliminary health examination should be carried out on all persons submitted to the screening at the external borders with a view to identifying persons in need of immediate care or requiring other measures to be taken, for instance isolation on public health grounds. The specific needs of minors and vulnerable

persons should be taken into account. ***If it is clear from the circumstances that such examination is not needed, in particular because the overall condition of the person appears to be very good, the examination should not take place and the person concerned should be informed of that fact.*** The preliminary health examination should be carried out by the health authorities of the Member State concerned. ***With regard to third-country nationals apprehended within the territory, the preliminary medical examination should be carried out where it is deemed necessary at first sight.***

persons should be taken into account. The preliminary health examination should be carried out by ***qualified medical professionals*** of the health authorities of the Member State concerned. ***For those seeking international protection this examination could form part of the medical examination in accordance with Article 23 of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation].***

Or. en

Amendment 27

Proposal for a regulation Recital 27

Text proposed by the Commission

(27) During the screening, all persons concerned should be guaranteed a standard of living complying with the Charter of Fundamental Rights of the European Union and have access to emergency health care and essential treatment of illnesses. Particular attention should be paid to individuals with vulnerabilities, such as pregnant women, elderly persons, single parent families, persons with ***an immediately identifiable*** physical or mental disability, persons ***visibly having suffered*** psychological ***or*** physical ***trauma and unaccompanied minors***. In particular, in case of a minor, information should be provided in a child-friendly and age appropriate manner. All the authorities involved in the performance of the tasks related to the screening should respect human dignity, privacy, and refrain from any discriminating actions or behaviour.

Amendment

(27) During the screening, all persons concerned should be guaranteed a standard of living complying with the Charter of Fundamental Rights of the European Union and have access to emergency health care and essential treatment of illnesses. ***As concerns those persons who apply for international protection, Directive (EU) XXX/XXX [Reception Conditions Directive] applies from the moment they make their application for international protection, and the provisions of that Directive should apply to them.*** Particular attention should be paid to individuals with vulnerabilities, such as ***minors, unaccompanied minors, pregnant women, elderly persons, single parent families, victims of trafficking in human beings, persons with a serious illness, persons with a mental disorder, persons with a physical or mental disability, persons who have been subjected to torture, rape or***

other serious forms of psychological, physical *or sexual violence*. In particular, in *the* case of a minor, information should be provided in a child-friendly and age appropriate manner *and should also be provided to the minor's representative*. All the authorities involved in the performance of the tasks related to the screening should respect human dignity, privacy, and refrain from any discriminating actions or behaviour.

Or. en

Amendment 28

Proposal for a regulation

Recital 28

Text proposed by the Commission

(28) Since third-country nationals subject to the screening may not *carry* the necessary identity and travel documents required for the legal crossing of the external border, an identification procedure should be *provided for* as part of the screening.

Amendment

(28) Since third-country nationals subject to the screening may not *have* the necessary identity and travel documents required for the legal crossing of the external border, an identification procedure should be *carried out* as part of the screening.

Or. en

Amendment 29

Proposal for a regulation

Recital 29

Text proposed by the Commission

(29) The Common Identity Repository (“CIR”) was established by Regulation (EU) 2019/817 of the European Parliament and of the Council (Interoperability Regulation)²⁵ to facilitate and assist in the correct identification of persons registered in the Entry/Exit System (“EES”), the Visa

Amendment

(29) The Common Identity Repository (“CIR”) was established by Regulation (EU) 2019/817 of the European Parliament and of the Council (Interoperability Regulation)²⁵ to facilitate and assist in the correct identification of persons registered in the Entry/Exit System (“EES”), the Visa

Information System (“VIS”), the European Travel Information and Authorisation System (“ETIAS”), Eurodac and in the European Criminal Records Information System for third country nationals (“ECRIS-TCN”), including of unknown persons who are unable to identify themselves. For that purpose, the CIR contains only the identity, travel document and biometric data recorded in EES, VIS, ETIAS, Eurodac and ECRIS-TCN, logically separated. Only the personal data strictly necessary to perform an accurate identity check is stored in the CIR. The personal data recorded in the CIR *is kept for no longer than strictly necessary for the purposes of the underlying systems and should* automatically *be* deleted where the data are deleted from the underlying systems. Consultation of the CIR enables a reliable and exhaustive identification of persons, by making it possible to consult all identity data present in the EES, VIS, ETIAS, Eurodac and ECRIS-TCN in one go, in a fast and reliable manner, while ensuring *a maximum* protection of the data and avoiding unnecessary processing or duplication of data.

²⁵ Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA, OJ L 135, 22.5.2019, p. 27.

Information System (“VIS”), the European Travel Information and Authorisation System (“ETIAS”), Eurodac and in the European Criminal Records Information System for third-country nationals (“ECRIS-TCN”), including of unknown persons who are unable to identify themselves. For that purpose, the CIR contains only the identity, travel document and biometric data recorded in EES, VIS, ETIAS, Eurodac and ECRIS-TCN, logically separated. Only the personal data strictly necessary to perform an accurate identity check is stored in the CIR. The personal data recorded in the CIR *are* automatically deleted where the data are deleted from the underlying systems. Consultation of the CIR enables a reliable and exhaustive *verification or* identification of persons, by making it possible to consult all identity data present in the EES, VIS, ETIAS, Eurodac and ECRIS-TCN in one go, in a fast and reliable manner, while ensuring *the* protection of the data and avoiding unnecessary processing or duplication of data.

²⁵ Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA, OJ L 135, 22.5.2019, p. 27.

Or. en

Amendment 30

Proposal for a regulation Recital 30

Text proposed by the Commission

(30) In order to establish the identity of the persons subject to the screening, a verification should be initiated in the CIR in the presence of the person during the screening. During that verification, the biometric data of the person should be checked against the data contained in the CIR. Where the biometric data of a person cannot be used or if a query with that data fails, the query could be carried out with identity data of the person in combination with travel document data, where such data are available. In accordance with the principles of necessity and proportionality, and where the query indicates that data on that person are stored in the CIR, Member State authorities should have access to the CIR to consult the identity data, travel document data and biometric data of that person, without the CIR providing any indication as to which EU information system the data belong to.

Amendment

(30) In order to **verify or** establish the identity of the persons subject to the screening, a verification should be initiated in the CIR in the presence of the person during the screening. During that verification, the biometric data of the person should be checked against the data contained in the CIR. Where the biometric data of a person cannot be used or if a query with that data fails, the query could be carried out with identity data of the person in combination with travel document data, where such data are available. In accordance with the principles of necessity and proportionality, and where the query indicates that data on that person are stored in the CIR, Member State authorities should have access to the CIR to consult the identity data, travel document data and biometric data of that person, without the CIR providing any indication as to which EU information system the data belong to.

Or. en

Amendment 31

Proposal for a regulation Recital 32

Text proposed by the Commission

(32) Given that many persons submitted to the screening may not **carry** any travel documents, the authorities conducting the screening should have access to any other relevant documents held by the persons concerned in cases where the biometric data of such persons are not usable or yield

Amendment

(32) Given that many persons submitted to the screening may not **have** any travel documents, the authorities conducting the screening should have access to any other relevant documents held by the persons concerned in cases where the biometric data of such persons are not usable or yield

no result in the CIR. The authorities should also be allowed to use data from those documents, other than biometric data, to carry out checks against the relevant databases.

no result in the CIR. The authorities should also be allowed to use data from those documents, other than biometric data, to carry out checks against the relevant databases.

Or. en

Amendment 32

Proposal for a regulation Recital 33

Text proposed by the Commission

(33) The identification of persons during border checks at the border crossing point and any consultation of the databases in the context of border surveillance or police checks in the external border area by the authorities who referred the person concerned to the screening should be considered as part of the screening and should not be repeated, unless there are special circumstances justifying such repetition.

Amendment

(33) The identification of persons during border checks at the border crossing point and any consultation of the databases in the context of border surveillance or police checks in the external border area by the authorities who referred the person concerned to the screening should be considered as part of the screening and should not be repeated, unless there are special circumstances justifying such repetition. ***It is neither necessary nor proportionate to consult the same database multiple times in respect of the same person. The collection of personal data, and in particular the taking of biometric data, in accordance with the requirements of Regulation (EU) xxx/xxx [Eurodac Regulation], should take place only once as part of the screening.***

Or. en

Amendment 33

Proposal for a regulation Recital 34

Text proposed by the Commission

(34) In order to ensure uniform conditions for the implementation of Articles 11(5) **and 12(5)** 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 Council²⁶. For the adoption of relevant implementing acts, the examination procedure should be used.

²⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing power (OJ L 55, 28.2.2011, p. 13).

Amendment

(34) In order to ensure uniform conditions for the implementation of Articles 11(5) 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 Council²⁶. For the adoption of relevant implementing acts, the examination procedure should be used.

²⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing power (OJ L 55, 28.2.2011, p. 13).

Or. en

Amendment 34

Proposal for a regulation Recital 36

Text proposed by the Commission

(36) As the screening concerns persons present at the external border ***without fulfilling*** entry conditions, or disembarked after a search and rescue operation, the security checks as part of the screening should be ***at least*** of a similar level ***as*** the checks performed in respect of third country nationals ***that*** apply ***on*** beforehand for an authorisation to enter the Union for a short stay, whether they are under a visa obligation or not.

Amendment

(36) As the screening concerns persons present at the external border ***who may not fulfil*** entry conditions, or ***who have been*** disembarked after a search and rescue operation, the security checks as part of the screening should be of a similar level ***to*** the checks performed in respect of third-country nationals ***who*** apply beforehand for an authorisation to enter the Union for a short stay, whether they are under a visa obligation or not.

Or. en

Amendment 35

Proposal for a regulation Recital 39

Text proposed by the Commission

(39) ***It follows from the reasoning developed in recital (36) that*** as regards persons subject to the screening, automated verifications for security purposes ***should be carried out*** against the ***same systems as is provided for applicants for a visa or for a travel authorisation under the European Travel Information and Authorisation System: the VIS, EES, ETIAS, SIS, ECRIS-TCN, Europol and Interpol's SLTD and TDAWN. Persons submitted to the screening*** should also be ***checked against ECRIS-TCN as regards persons convicted in relation to terrorist offences and other forms of serious criminal offences, Europol data referred to in the preceding recital 38, the Interpol's Lost and Stolen Travel Documents database and Travel Documents Associated with Notices databases (TDAWN).***

Amendment

(39) As regards persons subject to the screening, automated verifications for security purposes against the ***relevant databases*** should also be ***carried out***.

Or. en

Amendment 36

Proposal for a regulation Recital 40

Text proposed by the Commission

(40) Those checks should be conducted in a manner that ensures that only data necessary for carrying out the security checks is retrieved from those databases. With regard to persons who have requested international protection at a border crossing point, the consultation of databases for the security check as part of the screening

Amendment

(40) Those checks should be conducted in a manner that ensures that only data necessary for carrying out the security checks is retrieved from those databases. With regard to persons who have requested international protection at a border crossing point, the consultation of databases for the security check as part of the screening

should *focus on the* databases *that* were not consulted during the border checks at the external border, *thus avoiding repeated consultations*.

should *take place only insofar as any of the relevant* databases were not consulted during the border checks at the external border. *It is neither necessary nor proportionate to consult the same database multiple times in respect of the same person*.

Or. en

Amendment 37

Proposal for a regulation Recital 41

Text proposed by the Commission

(41) Where justified for the purpose of the security check, the screening could also include verification of objects in the possession of third-country nationals, in accordance with national law. Any measures applied in *this* context should be proportionate and should respect the human dignity of the persons subject to the screening. The authorities involved should ensure that the fundamental rights of the individuals concerned are respected, including the right to protection of personal data and freedom of expression.

Amendment

(41) Where justified for the purpose of the security check, the screening could also include verification of objects in the possession of third-country nationals, in accordance with national law. Any measures applied in *the context of a security check* should be proportionate and should respect the *principles of human dignity and of physical and psychological integrity* of the persons subject to the screening. The authorities involved should ensure that the fundamental rights of the individuals concerned are respected, including the right to protection of personal data and freedom of expression.

Or. en

Amendment 38

Proposal for a regulation Recital 42

Text proposed by the Commission

(42) *Since access to EES, ETIAS, VIS and ECRIS-TCN is necessary for the authorities designated to carry out the*

Amendment

deleted

screening in order to establish whether the person could pose a threat to the internal security or to public policy, Regulation (EC) No 767/2008, Regulation (EU) 2017/2226, Regulation (EU) 2018/1240 and Regulation (EC) No 2019/816, respectively, should be amended to provide for this additional access right which is currently not provided by those Regulations. In the case of Regulation (EU) No 2019/816, this amendment should for reasons of variable geometry take place through a different regulation than the present one.

Or. en

Amendment 39

Proposal for a regulation Recital 44

Text proposed by the Commission

(44) *Since the effective implementation of the screening is dependent upon correct identification of the individuals concerned and of their security background, the consultation of European databases for that purpose is justified by the same objectives for which each of those databases has been established, that is to say, the effective management of the Union's external borders, the internal security of the Union and the effective implementation of the Union's asylum and return policies.*

Amendment

(44) The consultation of European databases for *the purpose of identification and security checks during the screening can be justified to the extent strictly necessary for achieving* that purpose *and in accordance with the* objectives for which each of those databases has been established.

Or. en

Amendment 40

Proposal for a regulation Recital 44 a (new)

(44a) In order to supplement certain non-essential aspects of this Regulation as regards the procedure for cooperation and the sharing of personal data between the authorities responsible for carrying out the screening and other competent authorities for determining the risk to internal security, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

Or. en

Amendment 41

Proposal for a regulation

Recital 45

Text proposed by the Commission

(45) Since the objectives of this Regulation, namely the strengthening of the control of persons ***who are about to enter*** the Schengen area and their referral to the appropriate procedures, cannot be achieved by Member States acting alone, it is necessary to establish common rules at Union level. Thus, the Union may adopt

Amendment

(45) Since the objectives of this Regulation, namely the strengthening of the control of persons ***entering*** the Schengen area and their referral to the appropriate procedures, cannot be achieved by Member States acting alone, it is necessary to establish common rules at Union level. Thus, the Union may adopt

measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

Or. en

Amendment 42

Proposal for a regulation Article 1 – title

Text proposed by the Commission

Amendment

Subject matter *and scope*

Subject matter

Or. en

Amendment 43

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

Amendment

This Regulation establishes *the* screening at the external borders of the Member States of all third-country nationals who have crossed the external border in an *unauthorised* manner, of those who have applied for international protection during border checks without fulfilling entry conditions, as well as those disembarked after a search and rescue operation, *before they are referred* to the appropriate procedure.

This Regulation establishes *a* screening *procedure* at the external borders of the Member States for all third-country nationals who have crossed the external border in an *irregular* manner, for those who have applied for international protection during border checks without fulfilling entry conditions, as well as for those disembarked after a search and rescue operation *in order to refer them* to the appropriate procedure.

Or. en

Amendment 44

Proposal for a regulation Article 1 – paragraph 2

Text proposed by the Commission

Amendment

The purpose of the screening shall be the strengthening of the control of persons who are about to enter the Schengen area and their referral to the appropriate procedures.

deleted

Or. en

Amendment 45

Proposal for a regulation Article 1 – paragraph 3

Text proposed by the Commission

Amendment

The ***object*** of the screening shall be ***the identification of*** all third-country nationals subject to it and ***the verification*** against relevant databases ***that*** the persons subject to it do not pose a threat to internal security. The screening shall also entail health checks, ***where appropriate, to identify persons*** vulnerable ***and*** in the need of health care as well ***the ones*** posing a threat to public health. ***Those checks shall contribute to referring such persons to the appropriate procedure.***

The ***purpose*** of the screening shall be ***to seek to identify*** all third-country nationals subject to it and ***to verify*** against ***the*** relevant databases ***whether*** the persons subject to it do not pose a threat to internal security. The screening shall also ***include mandatory*** health checks ***to begin the process of identifying*** vulnerable ***persons, those with special reception or procedural needs, and those*** in need of health care, as well ***as persons possibly*** posing a threat to public health.

Or. en

Amendment 46

Proposal for a regulation Article 1 – paragraph 4

Text proposed by the Commission

Amendment

The screening shall also be carried out

deleted

within the territory of the Member States where there is no indication that third-country nationals have been subject to controls at external borders.

Or. en

Amendment 47

Proposal for a regulation

Article 2 – paragraph 1 – point 1

Text proposed by the Commission

Amendment

1. *‘unauthorised crossing of the external border’ means crossing of an external border of a Member State by land, sea or air, at places other than border crossing points or at times other than the fixed opening hours, as referred to in Article 5(3) of Regulation (EU) 2016/399;*

deleted

Or. en

Amendment 48

Proposal for a regulation

Article 2 – paragraph 1 – point 5 a (new)

Text proposed by the Commission

Amendment

5a. *‘biometric data’ means fingerprint data and facial image data within the meaning of Article 3, point (p), of Regulation (EU) xxxx/202x [Eurodac Regulation];*

Or. en

Amendment 49

Proposal for a regulation

Article 2 – paragraph 1 – point 5 b (new)

Text proposed by the Commission

Amendment

5b. 'stateless person' means a stateless person as laid down in Article 1 of the Convention relating to the Status of Stateless Persons, signed in New York on 28 September 1954, in its original version;

Or. en

Amendment 50

Proposal for a regulation

Article 2 – paragraph 1 – point 5 c (new)

Text proposed by the Commission

Amendment

5c. 'representative' means a person or an organisation, including a public authority designated by the competent authorities or bodies, with the necessary skills and expertise, including regarding the treatment and specific needs of minors, to represent, assist and act on behalf of an unaccompanied minor, as applicable, in order to safeguard his or her best interests and general well-being and so that the unaccompanied minor can benefit from the rights and comply with the obligations under this Regulation.

Or. en

Amendment 51

Proposal for a regulation

Article 3 – title

Text proposed by the Commission

Amendment

Screening at the external border

Scope

Or. en

Amendment 52

Proposal for a regulation

Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) are apprehended in connection with an ***unauthorised*** crossing of the external border of a Member State by land, sea or air, except third country nationals for whom the Member State is not required to take the biometric data pursuant to Article 14(1) and (3) of Regulation (EU) 603/2013 for reasons other than their age, or

(a) are apprehended in connection with an ***irregular*** crossing of the external border of a Member State by land, sea or air, except third-country nationals for whom, ***for reasons other than their age***, the Member State is not required to take the biometric data pursuant to Article 14(1) and (3) of Regulation (EU) 603/2013, or

Or. en

Amendment 53

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. The screening is without prejudice to the application of Article 6(5) of Regulation (EU) 2016/399, ***except the situation where the beneficiary of an individual decision issued by the Member State based on Article 6(5)(c) of that Regulation is seeking international protection.***

3. The screening is without prejudice to the application of Article 6(5) of Regulation (EU) 2016/399.

Or. en

Amendment 54

Proposal for a regulation Article 4 – title

Text proposed by the Commission

Authorisation to enter the territory of a Member State

Amendment

Authorisation to enter **and remain on** the territory of a Member State

Or. en

Amendment 55

Proposal for a regulation Article 4 – paragraph 1

Text proposed by the Commission

1. During the screening, the persons referred to in Article 3, paragraphs 1 and 2 shall **not** be authorised to enter the territory of a Member State.

Amendment

1. During the screening, ***in accordance with Article 9 of Regulation (EU) xxxx/202x [Asylum Procedure Regulation]***, the persons referred to in Article 3, paragraphs 1 and 2 ***who have applied for international protection*** shall ***be authorised to remain on the territory of a Member State.***

In order to make this right effective, and with regard to Articles 3 and 4 of Regulation (EU) 2016/399, the persons referred to in Article 3, paragraphs 1 and 2 who have applied for international protection shall also be authorised to enter the territory of a Member State.

Or. en

Amendment 56

Proposal for a regulation Article 4 – paragraph 2

Text proposed by the Commission

2. ***Where it becomes apparent during***

Amendment

deleted

the screening that the third-country national concerned fulfils the entry conditions set out in Article 6 of Regulation (EU) 2016/399, the screening shall be discontinued and the third-country national concerned shall be authorised to enter the territory, without prejudice to the application of penalties as referred to in Article 5(3) of that Regulation.

Or. en

Amendment 57

Proposal for a regulation Article 5

Text proposed by the Commission

Amendment

Article 5

deleted

Screening within the territory

Member States shall apply the screening to third-country nationals found within their territory where there is no indication that they have crossed an external border to enter the territory of the Member States in an authorised manner.

Or. en

Amendment 58

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. *In the cases referred to in Article 3, the screening shall be conducted at locations situated at or in proximity to the external borders.*

1. The screening *may* be conducted at *any appropriate location within the territory of a Member State, including* at or in proximity to the external borders, *in particular, where the persons concerned are clearly not seeking international*

protection.

Or. en

Amendment 59

Proposal for a regulation

Article 6 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Organisations and persons providing advice and counselling shall have effective access to third-country nationals, in particular to those held in detention facilities or present at the border crossing points, including transit zones, at external borders.

Or. en

Amendment 60

Proposal for a regulation

Article 6 – paragraph 2

Text proposed by the Commission

Amendment

2. In the cases referred to in Article 5, the screening shall be conducted at any appropriate location within the territory of a Member State.

deleted

Or. en

Amendment 61

Proposal for a regulation

Article 6 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

In the cases referred to in Article 3, the

The screening shall be carried out without

screening shall be carried out without delay and shall in any case be completed within 5 days from the apprehension in the external border area, the disembarkation in the territory of the Member State concerned or the presentation at the border crossing point. *In exceptional circumstances, where a disproportionate number of third-country nationals needs to be subject to the screening at the same time, making it impossible in practice to conclude the screening within that time-limit, the period of 5 days may be extended by a maximum of an additional 5 days.*

delay and shall in any case be completed within *five* days from the apprehension in the external border area, the disembarkation in the territory of the Member State concerned or the presentation at the border crossing point.

Or. en

Amendment 62

Proposal for a regulation Article 6 – paragraph 4

Text proposed by the Commission

Amendment

4. *Member States shall notify the Commission without delay about the exceptional circumstances referred to in paragraph 3. They shall also inform the Commission as soon as the reasons for extending the screening period have ceased to exist.*

deleted

Or. en

Amendment 63

Proposal for a regulation Article 6 – paragraph 5

Text proposed by the Commission

Amendment

5. *The screening referred to in Article 5 shall be carried out without delay and in any case shall be completed within 3 days from apprehension.*

deleted

Amendment 64

Proposal for a regulation Article 6 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall ensure that all persons subject to the screening are accorded a standard of living which guarantees their subsistence, protects their physical and mental health, and respects their rights under the Charter of Fundamental Rights of the European Union.

Or. en

Amendment 65

Proposal for a regulation Article 6 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. The provisions of Directive (EU) xxxx/xxxx [Reception Conditions Directive] shall apply to persons who apply for international protection, in accordance with Article 16 of that Directive, from the moment they make their application for international protection.

Or. en

Amendment 66

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

Text proposed by the Commission

(a) preliminary health **and vulnerability** check as referred to in Article 9;

Amendment

(a) **a** preliminary health check as referred to in Article 9;

Or. en

Amendment 67

Proposal for a regulation Article 6 – paragraph 6 – point a a (new)

Text proposed by the Commission

(a) preliminary health **and vulnerability** check as referred to in Article 9;

Amendment

(aa) a vulnerability check as referred to in Article 9;

Or. en

Amendment 68

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

Text proposed by the Commission

(b) identification as referred to in Article 10;

Amendment

(b) identification **or verification of identity** as referred to in Article 10;

Or. en

Amendment 69

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

Text proposed by the Commission

(c) registration of biometric data in **the appropriate databases as referred to in Article 14(6), to the extent it has not**

Amendment

(c) registration of biometric data in **accordance with Articles 10, 13 and 14a of Regulation (EU) xxxx/xxxx [Eurodac**

occurred yet,

Regulation];

Or. en

Amendment 70

Proposal for a regulation

Article 6 – paragraph 6 – point d

Text proposed by the Commission

Amendment

(d) security check as referred to in Article 11;

(d) **a** security check as referred to in Article 11;

Or. en

Amendment 71

Proposal for a regulation

Article 6 – paragraph 6 – point f

Text proposed by the Commission

Amendment

(f) referral to the appropriate procedure as referred to in Article 14.

(f) referral to the appropriate procedure **or a refusal of entry** as referred to in Article 14.

Or. en

Amendment 72

Proposal for a regulation

Article 6 – paragraph 7 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall designate competent authorities to carry out the screening. They shall deploy appropriate staff and sufficient resources to carry out the screening in an efficient way.

Member States shall designate competent authorities to carry out the screening **and shall ensure that the staff of those competent authorities who will carry out the screening has the appropriate knowledge and has received the necessary training in accordance with Article 8 of**

Regulation (EU) No XXX/XXX [EU Asylum Agency Regulation]. They shall deploy appropriate staff and sufficient resources to carry out the screening in an efficient way.

Or. en

Amendment 73

Proposal for a regulation Article 6 – paragraph 7 – subparagraph 2

Text proposed by the Commission

Member States shall designate qualified medical **staff** to carry out the health check provided for in Article 9. National child protection authorities and national anti-trafficking rapporteurs shall also be involved, where appropriate.

Amendment

Member States shall designate qualified medical **professionals** to carry out the health check provided for in Article 9. National child protection authorities and national anti-trafficking rapporteurs shall, **where appropriate**, also be involved.

Or. en

Amendment 74

Proposal for a regulation Article 6 – paragraph 7 – subparagraph 3

Text proposed by the Commission

The competent authorities may be assisted or supported in the performance of the screening by experts or liaison officers and teams deployed by the European Border and Coast Guard Agency and the [European Union Agency for Asylum] within the limits of their mandates.

Amendment

The competent authorities may be assisted or supported in the performance of the screening by experts or liaison officers and teams deployed by the European Border and Coast Guard Agency and the [European Union Agency for Asylum] within the limits of their mandates, **provided that such experts have the relevant training and qualifications as set out in the first two subparagraphs.**

Or. en

Amendment 75

Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

1. Member States shall adopt relevant provisions to investigate allegations of non-respect for fundamental rights ***in relation to*** the screening.

Amendment

1. Member States shall adopt relevant provisions to investigate allegations of non-respect for fundamental rights ***during border surveillance and*** the screening, ***asylum and return procedures and shall adopt provisions under national law to penalise a failure to respect fundamental rights. The penalties provided for shall be effective, proportionate and dissuasive.***

Or. en

Amendment 76

Proposal for a regulation Article 7 – paragraph 2 – subparagraph 1 – indent 1

Text proposed by the Commission

— to ensure compliance with EU and international law, including the Charter of Fundamental Rights, during the screening;

Amendment

— to ensure compliance with ***Union*** and international law, including the Charter of Fundamental Rights, during ***border surveillance and*** the screening, ***asylum and return procedures***;

Or. en

Amendment 77

Proposal for a regulation Article 7 – paragraph 2 – subparagraph 1 – indent 1 a (new)

Text proposed by the Commission

Amendment

- ***to monitor investigations, and where necessary trigger such investigations, into allegations of non-respect for fundamental rights in all***

relevant activities in relation to border surveillance, the screening, asylum and return procedures, for all third-country nationals who:

(a) are involved in irregularly crossing the external border of a Member State by land, sea or air, except third-country nationals for whom, for reasons other than their age, the Member State is not required to take the biometric data pursuant to Article 14(1) and (3) of Regulation (EU) 603/2013;

(b) are disembarked in the territory of a Member State following a search and rescue operation, or

(c) apply for international protection at external border crossing points or in transit zones and do not fulfil the entry conditions set out in Article 6 of Regulation (EU) 2016/399;

Or. en

Amendment 78

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 1 – indent 1 b (new)

Text proposed by the Commission

Amendment

- to ensure that allegations of non-respect for fundamental rights in relation to the screening, including in relation to access to the asylum procedure and non-compliance with the principle of non-refoulement, are dealt with effectively and without undue delay;

Or. en

Amendment 79

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 1 – indent 2

Text proposed by the Commission

— where applicable, to ensure compliance with ***national*** rules on detention of the person concerned, in particular concerning the grounds ***and*** the duration of the detention;

Amendment

— where applicable, to ensure compliance with ***the relevant*** rules on detention of the person concerned, in particular concerning the grounds, the duration ***and conditions*** of the detention;

Or. en

Amendment 80

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 1 – indent 2 a (new)

Text proposed by the Commission

Amendment

- ***to ensure compliance with the procedural safeguards applicable to the person concerned.***

Or. en

Amendment 81

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 1 – indent 3

Text proposed by the Commission

Amendment

— ***to ensure that allegations of non-respect for fundamental rights in relation to the screening, including in relation to access to the asylum procedure and non-compliance with the principle of non-refoulement, are dealt with effectively and without undue delay.***

deleted

Or. en

Amendment 82

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Member States shall put in place adequate safeguards to guarantee the independence of the mechanism.

Amendment

Member States shall put in place adequate safeguards to guarantee the independence of the mechanism ***and shall involve national human rights institutions, national ombudspersons, international organisations or relevant non-governmental organisations in the management and operation of the mechanism. Insofar as one or more of those institutions or organisations are not directly involved in the mechanism, the bodies responsible for the monitoring mechanism shall establish and maintain close links with them.***

Or. en

Amendment 83

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

In order for the mechanism to be effective, Member States shall provide bodies responsible for the mechanism with access to all relevant locations, individuals and documents, insofar as such access is necessary to allow the bodies responsible for the mechanism to fulfil the obligations set out in this Article.

Or. en

Amendment 84

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 2 b (new)

Text proposed by the Commission

Amendment

In addition, the bodies responsible for the monitoring mechanism shall establish and maintain close links with the national data protection authorities and the European Data Protection Supervisor.

Or. en

Amendment 85

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

The Fundamental Rights Agency shall issue general guidance for Member States on the setting up of such mechanism and its independent functioning. ***Furthermore***, Member States may request the Fundamental Rights Agency to support them in developing their national monitoring mechanism, including the safeguards for independence of such mechanisms, as well as the monitoring methodology and appropriate training schemes.

The ***FRA*** shall issue general guidance for Member States on the setting up of such mechanism and its independent functioning. Member States may request the ***FRA*** to support them in developing their national monitoring mechanism, including the safeguards for independence of such mechanisms, as well as the monitoring methodology and appropriate training schemes.

Or. en

Amendment 86

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

The mechanisms referred to above shall

be without prejudice to the monitoring mechanism for the purpose of monitoring the operational and technical application of the CEAS as set out in Article 14 of Regulation (EU) xxxx/xxxx [EU Asylum Agency Regulation] and to the role of the fundamental rights monitors in monitoring respect for fundamental rights in all activities of the European Border and Coast Guard Agency as set out in Article 80 of Regulation (EU) 2019/1896 [European Border and Coast Guard Regulation].

Or. en

Amendment 87

Proposal for a regulation Article 7 – paragraph 2 – subparagraph 4

Text proposed by the Commission

Member States may invite relevant national, international and non-governmental organisations and bodies to participate in the monitoring.

Amendment

deleted

Or. en

Amendment 88

Proposal for a regulation Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

1. Third-country nationals subject to the screening *shall be succinctly informed* about the purpose and the modalities of the screening:

Amendment

1. *Member States shall inform* third-country nationals subject to the screening about the purpose and the modalities of the screening, *including*:

Or. en

Amendment 89

Proposal for a regulation

Article 8 – paragraph 1 – point a

Text proposed by the Commission

(a) the steps and **modalities** of the screening as well as possible outcomes of the screening;

Amendment

(a) the steps and **duration** of the screening as well as possible outcomes of the screening;

Or. en

Amendment 90

Proposal for a regulation

Article 8 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the possibility to apply for international protection, in particular in the circumstances specified in Article 30 of Regulation (EU) xxxx/202x [Asylum Procedure Regulation];

Or. en

Amendment 91

Proposal for a regulation

Article 8 – paragraph 2 – introductory part

Text proposed by the Commission

2. **During** the screening, **they** shall also, as appropriate, **receive** information on:

Amendment

2. **At the beginning of** the screening, **Member States** shall also, as appropriate, **provide** information on:

Or. en

Amendment 92

Proposal for a regulation

Article 8 – paragraph 2 – point c

Text proposed by the Commission

(c) the obligation **for illegally staying third-country nationals** to return in accordance with Directive XXXXX [Return Directive];

Amendment

(c) the obligation to return in accordance with Directive XXXXX [Return Directive];

Or. en

Amendment 93

Proposal for a regulation

Article 8 – paragraph 2 – point f

Text proposed by the Commission

(f) the **information** referred to in Article 13 of the Regulation (EU) 2016/679³⁵ [GDPR].

Amendment

(f) the **rights** referred to in Article 13 of the Regulation (EU) 2016/679³⁵ [GDPR], **in Article 13 of the Directive (EU) 2016/680^{35a} [Police Directive] and in Article 15 of the Regulation (EU) 2018/1725^{35b}.**

³⁵ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016

³⁵ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016

^{35a} **Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and**

*repealing Council Framework
Decision 2008/977/JHA (Police Directive),
OJ L 119, 4.5.2016*

*^{35b} Regulation (EU) 2018/1725 of the
European Parliament and of the Council
of 23 October 2018 on the protection of
natural persons with regard to the
processing of personal data by the Union
institutions, bodies, offices and agencies
and on the free movement of such data,
and repealing Regulation (EC) No
45/2001 and Decision No 1247/2002/EC,
OJ L 295, 21.11.2018*

Or. en

Amendment 94

Proposal for a regulation Article 8 – paragraph 3

Text proposed by the Commission

3. The information provided during the screening shall be given in a language which the third-country national understands *or is reasonably supposed to understand*. The information shall be given in writing *and, in exceptional circumstances*, where necessary, orally using interpretation services. It shall be provided in an appropriate manner taking into account the age and the gender of the person.

Amendment

3. The information provided during the screening shall be given in a language which the third-country national understands. The information shall be given in writing *in a concise and easily accessible form, using clear and plain language and*, where necessary, orally using interpretation services. It shall be provided in an appropriate manner taking into account the age and the gender of the person.

Or. en

Amendment 95

Proposal for a regulation Article 8 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

For those third-country nationals seeking international protection, this information may be provided at the same time as the information as laid down in Article 8(2) of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation].

The responsible authorities shall make the necessary arrangements for interpretation services and, where necessary and appropriate, for cultural mediation services to be available to facilitate access to the procedure for international protection.

Or. en

Amendment 96

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

Amendment

1. Third-country nationals submitted to the screening referred to in Article 3 shall be subject to a preliminary medical examination with a view to identifying any needs for immediate care or isolation on public health grounds, ***unless, based on the circumstances concerning the general state of the individual third-country nationals concerned and the grounds for directing them to the screening, the relevant competent authorities are satisfied that no preliminary medical screening is necessary. In that case, they shall inform those persons accordingly.***

1. Third-country nationals submitted to the screening referred to in Article 3 shall be subject to a preliminary medical examination ***by qualified medical professionals*** with a view to identify any needs for immediate care or isolation on public health grounds.

Or. en

Amendment 97

Proposal for a regulation

Article 9 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

For those third-country nationals seeking international protection, the health check referred to in the first subparagraph may form part of the medical examination as laid down in Article 23 of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation].

Or. en

Amendment 98

Proposal for a regulation

Article 9 – paragraph 2

Text proposed by the Commission

Amendment

2. ***Where relevant, it shall be checked*** whether persons referred to in paragraph 1 are in a vulnerable situation, victims of torture or have special reception or procedural needs within the meaning of Article 20 of the [recast] Reception Conditions Directive.

2. ***Member States shall check*** whether persons referred to in paragraph 1 are in a vulnerable situation, ***are*** victims of torture, ***are stateless or at risk of statelessness***, or have special reception or procedural needs within the meaning of Article 21 of ***Directive (EU) xxxx/xxxx [Reception Conditions Directive] and Article 20 of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation].***

Or. en

Amendment 99

Proposal for a regulation

Article 9 – paragraph 4

Text proposed by the Commission

Amendment

4. ***Where it is deemed necessary***

deleted

based on the circumstances, third-country nationals submitted to the screening referred to in Article 5 shall be subject to a preliminary medical examination, notably to identify any medical condition requiring immediate care, special assistance or isolation.

Or. en

Amendment 100

Proposal for a regulation Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9a

Special guarantees for unaccompanied minors

- 1. Member States shall as soon as possible take measures to ensure that a representative represents and assists the unaccompanied minor during the screening. Where applicable, this representative shall be the same as the representative to be appointed in accordance with Article 23 of Directive (EU) XXX/XXX [Reception Conditions Directive]. The unaccompanied minor shall be informed immediately of the appointment of the representative. The representative shall perform his or her duties in accordance with the principle of the best interests of the child and shall have the necessary expertise to that end. In order to ensure the minor's well-being and social development the person acting as representative shall be changed only when necessary. Organisations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be eligible to become representatives.*
- 2. Member States shall place a natural person who is designated as*

representative or the person referred to in Article 23, paragraph 1, first subparagraph, point (a), of Directive (EU) XXX/XXX [Reception Conditions Directive] in charge of a proportionate and limited number of unaccompanied minors and, under normal circumstances, of no more than thirty at the same time to ensure that he or she is able to perform his or her tasks effectively.

Or. en

Amendment 101

Proposal for a regulation Article 10 – title

Text proposed by the Commission

Amendment

Identification

Verification of identity or identification

Or. en

Amendment 102

Proposal for a regulation Article 10 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. To the extent it has not yet occurred during the application of Article 8 of Regulation (EU) 2016/399, the identity of third-country nationals submitted to the screening pursuant to Article 3 *or Article 5* shall be verified or established, by using *in particular* the following, *in combination with national and European databases*:

1. To the extent it has not yet occurred during the application of Article 8 of Regulation (EU) 2016/399, the identity of third-country nationals submitted to the screening pursuant to Article 3 shall be verified or established, by using, *where applicable*, the following:

Or. en

Amendment 103

Proposal for a regulation Article 10 – paragraph 2

Text proposed by the Commission

2. For the purpose of the identification referred to in paragraph 1, the competent authorities shall query **any relevant national databases as well as** the common identity repository (CIR) referred to in Article 17 of Regulation (EU) 2019/817. The biometric data of **a third-country national taken live during the screening, as well as the identity data and, where available, travel document data** shall be used to that end.

Amendment

2. For the purpose of the **verification or** identification referred to in paragraph 1 **of this Article**, the competent authorities shall query the common identity repository (CIR) referred to in Article 17 of Regulation (EU) 2019/817 **and the Schengen Information System (SIS)**. The biometric data of **third-country nationals subject to** the screening shall be **taken only once for the purpose of both verification or identification and of the registration in Eurodac of that person**.

Or. en

Amendment 104

Proposal for a regulation Article 10 – paragraph 3

Text proposed by the Commission

3. Where the biometric data of the third-country national cannot be used or where the query with those data **referred to in paragraph 2** fails, the query as referred to in paragraph 2 shall be carried out with the identity data of the third-country national, in combination with any identity, travel or other document data or with the identity data provided by that third-country national.

Amendment

3. Where the biometric data of the third-country national cannot be used or where the query with those data fails, the query as referred to in paragraph 2 shall be carried out with the identity data of the third-country national, in combination with any identity, travel or other document data or with the identity data provided by that third-country national.

Or. en

Amendment 105

Proposal for a regulation Article 11 – paragraph 1

Text proposed by the Commission

1. **Third country** nationals submitted to the screening pursuant to Article 3 **or Article 5** shall undergo a security check to verify that they do not constitute a threat to internal security. The security check may cover both the third-country nationals and the objects in their possession. The law of the Member State concerned shall apply to any searches carried out.

Amendment

1. **Third-country** nationals submitted to the screening pursuant to Article 3 shall undergo a security check to verify that they do not constitute a threat to internal security. The security check may cover both the third-country nationals and the objects in their possession. The law of the Member State concerned shall apply to any searches carried out.

Or. en

Amendment 106

Proposal for a regulation Article 11 – paragraph 2

Text proposed by the Commission

2. For the purpose of conducting the security check referred to in paragraph 1, and to the extent that **they have not yet done so** in accordance with Article 8(3), **point (a)(vi)**, of Regulation (EU) 2016/399, the **competent authorities shall query** relevant **national and** Union databases, in particular the Schengen Information System (SIS).

Amendment

2. For the purpose of conducting the security check referred to in paragraph 1, and to the extent that **this has not already taken place in the context of checks performed** in accordance with Article 8(3) of Regulation (EU) 2016/399, the relevant Union databases, in particular the Schengen Information System (SIS), **shall be queried**.

Or. en

Amendment 107

Proposal for a regulation Article 11 – paragraph 3

Text proposed by the Commission

Amendment

3. To the extent it has not been already done during the checks referred to in Article 8 of Regulation (EU) 2016/399, the competent authority shall query the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS), including the ETIAS watch list referred to in Article 29 of Regulation (EU) 2018/1240, the Visa Information System (VIS), the ECRIS-TCN system as far as convictions related to terrorist offences and other forms of serious criminal offences are concerned, the Europol data processed for the purpose referred to in Article 18(2), point (a), of Regulation (EU) 2016/794, and the Interpol Travel Documents Associated with Notices database (Interpol TDAWN) with the data referred to in Article 10(1) and using at least the data referred to under point (c) thereof.

deleted

Or. en

Amendment 108

Proposal for a regulation Article 11 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. As regards the consultation of the ECRIS-TCN system, the data retrieved shall be limited to convictions related to terrorist offences and other forms of serious criminal offences.

Or. en

Amendment 109

Proposal for a regulation

Article 11 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. Any query of Interpol databases for the purposes of paragraph 2 shall be performed only when it is ensured that no information is revealed to the owner of the Interpol alert.

Or. en

Amendment 110

Proposal for a regulation

Article 12 – paragraph 1

Text proposed by the Commission

Amendment

1. The queries provided for in Article 10(2) and in Article 11(2) **may** be launched using, for queries related to EU information systems and the CIR, the European Search Portal in accordance with Chapter II of Regulation (EU) 2019/817 and with Chapter II of Regulation (EU) 2019/818³⁶.

1. The queries provided for in Article 10(2) and in Article 11(2) **of this Regulation shall** be launched using, for queries related to EU information systems and the CIR, the European Search Portal in accordance with Chapter II of Regulation (EU) 2019/817 and with Chapter II of Regulation (EU) 2019/818³⁶.

³⁶ Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration, OJ L 135, 22.5.2019, p. 85.

³⁶ Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration, OJ L 135, 22.5.2019, p. 85.

Or. en

Amendment 111

Proposal for a regulation Article 12 – paragraph 2

Text proposed by the Commission

Amendment

2. *Where a match is obtained following a query as provided for in Article 11(3) against data in one of the information systems, the competent authority shall have access to consult the file corresponding to that match in the respective information system in order to determine the risk to internal security as referred to in Article 11(1).* *deleted*

Or. en

Amendment 112

Proposal for a regulation Article 12 – paragraph 3

Text proposed by the Commission

Amendment

3. *Where a query as provided for in Article 11(3) reports a match against Europol data, the competent authority of the Member State shall inform Europol in order to take, if needed, any appropriate follow-up action in accordance with the relevant legislation.* *deleted*

Or. en

Amendment 113

Proposal for a regulation Article 12 – paragraph 4

Text proposed by the Commission

Amendment

4. *Where a query as provided for in Article 11(3) reports a match against the* *deleted*

Interpol Travel Documents Associated with Notices database (Interpol TDAWN), the competent authority of the Member State shall inform the Interpol National Central Bureau of the Member State that launched the query in order to take, if needed, any appropriate follow-up action in accordance with the relevant legislation.

Or. en

Amendment 114

Proposal for a regulation Article 12 – paragraph 5

Text proposed by the Commission

5. The Commission shall adopt ***implementing*** acts to specify the procedure for cooperation between the authorities responsible for carrying out the screening, ***Interpol National Central Bureaux, Europol national unit, and ECRIS-TCN central*** authorities, ***respectively***, to determine ***the risk*** to internal security. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).***

Amendment

5. The Commission shall adopt ***delegated*** acts in accordance with Article 290 TFEU to supplement this Regulation in order to specify the procedure for cooperation between the authorities responsible for carrying out the screening ***and other competent*** authorities to determine ***a threat*** to internal security.

Or. en

Amendment 115

Proposal for a regulation Article 13 – paragraph 1 – introductory part

Text proposed by the Commission

On completion of the screening, the competent authorities shall, with regard to the persons referred to in Article 3 ***and in Article 5***, complete the form in Annex I containing:

Amendment

On completion of the screening, the competent authorities shall complete the form ***set out*** in Annex I containing ***the following information with regard to the third-country nationals referred to in***

Article 3:

Or. en

Amendment 116

Proposal for a regulation
Article 13 – paragraph 1 – point b

Text proposed by the Commission

(b) initial indication of nationalities, countries of residence prior to arrival and languages spoken;

Amendment

(b) ***their*** initial indication of nationalities ***or statelessness***, countries of residence prior to arrival and languages spoken;

Or. en

Amendment 117

Proposal for a regulation
Article 13 – paragraph 1 – point c

Text proposed by the Commission

(c) reason for ***unauthorised arrival, entry, and, where appropriate illegal stay or residence, including information on whether the person made an application for international protection;***

Amendment

(c) ***the*** reason for ***which the screening was performed;***

Or. en

Amendment 118

Proposal for a regulation
Article 13 – paragraph 1 – point d

Text proposed by the Commission

(d) ***information obtained on routes travelled, including the point of departure, the places of previous residence, the third***

Amendment

deleted

countries of transit and those where protection may have been sought or granted as well as the intended destination within the Union;

Or. en

Amendment 119

Proposal for a regulation Article 13 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) information on assistance provided by a person or a criminal organisation in relation to unauthorised crossing of the border, and any related information in cases of suspected smuggling. *deleted*

Or. en

Amendment 120

Proposal for a regulation Article 13 – paragraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) information on vulnerability or special reception or procedural needs identified during the screening, and on any health check or medical examination performed;

Or. en

Amendment 121

Proposal for a regulation Article 13 – paragraph 1 – point e b (new)

Text proposed by the Commission

Amendment

(eb) information as to whether the third-country national has applied for international protection;

Or. en

Amendment 122

**Proposal for a regulation
Article 13 – paragraph 1 – point e c (new)**

Text proposed by the Commission

Amendment

(ec) information as to whether the third-country national has family members or relatives located on the territory of the Member States.

Or. en

Amendment 123

**Proposal for a regulation
Article 13 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

Where such information is available, the form shall include:

(a) the reason for irregular arrival or entry;

(b) information obtained on routes travelled, including the point of departure, the places of previous residence, the third countries of transit and those where international protection may have been sought or granted as well as the intended destination within the Union.

Or. en

Amendment 124

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 1 – indent 1

Text proposed by the Commission

— *have not applied for* international protection and

Amendment

— *are clearly not seeking* international protection and

Or. en

Amendment 125

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 2

Text proposed by the Commission

shall be referred to the competent authorities to apply procedures respecting Directive (EU) 2008/115/EC (Return Directive).

Amendment

shall be referred to the competent authorities to apply procedures respecting Directive (EU) 2008/115/EC [~~Return Directive~~], *without prejudice to the application of Article 6(5) of Regulation (EU) 2016/399.*

Or. en

Amendment 126

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 3

Text proposed by the Commission

In cases not related to search and rescue operations, entry may be refused in accordance with Article 14 of Regulation 2016/399.

Amendment

In cases not related to search and rescue operations *and not covered by Article 4 of this Regulation*, entry may be refused in accordance with Article 14 of Regulation 2016/399.

Or. en

Amendment 127

Proposal for a regulation Article 14 – paragraph 2

Text proposed by the Commission

2. Third-country nationals who made an application for international protection shall be referred to the authorities referred to in Article XY of Regulation (EU) No XXX/XXX [Asylum Procedure Regulation], together with the form referred to in Article 13 of this Regulation. ***On that occasion, the authorities conducting the screening shall point in the de-briefing form to any elements which seem at first sight to be relevant to refer the third-country nationals concerned into the accelerated examination procedure or the border procedure.***

Amendment

2. Third-country nationals who ***make or have*** made an application for international protection shall be referred to the authorities referred to in Article XY of Regulation (EU) No XXX/XXX [Asylum Procedure Regulation], together with the form referred to in Article 13 of this Regulation.

Or. en

Amendment 128

Proposal for a regulation Article 14 – paragraph 4

Text proposed by the Commission

4. ***The third-country nationals referred to in Article 5, who***
— ***have not applied for international protection and***
— ***with regard to whom the screening has not revealed that they fulfil the conditions for entry and stay***
shall be subject to return procedures respecting Directive 2008/115/EC.

Amendment

deleted

Or. en

Amendment 129

Proposal for a regulation Article 14 – paragraph 5

Text proposed by the Commission

Amendment

5. Where third-country nationals submitted to the screening in accordance with Article 5 make an application for international protection as referred to in Article 25 of Regulation (EU) No XXX/XXX (Asylum Procedures Regulation), paragraph 2 of this Article shall apply accordingly.

deleted

Or. en

Amendment 130

Proposal for a regulation Article 14 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. In order to be in a position to effectively exercise the rights referred to in Article 13 of Regulation (EU) 2016/679 [GDPR], in Article 13 of Directive (EU) 2016/680 [Police Directive] and in Article 15 of Regulation (EU) 2018/1725, in particular the right to request from the data controller access to and rectification or erasure of personal data and the right to lodge a complaint with a supervisory authority, the person concerned shall be provided with a copy of the form at the same time as it is transmitted to the relevant authorities as referred to in paragraphs 1, 2 and 3 of this Article.

Or. en

Amendment 131

Proposal for a regulation Article 14 – paragraph 6

Text proposed by the Commission

6. *In respect of third-country nationals to whom Regulation EU No XXX/XXX [Eurodac Regulation] applies, the competent authorities shall take the biometric data referred to in Articles [10, 13, 14 and 14a] of that Regulation (EU) and shall transmit it in accordance with that Regulation.*

Amendment

deleted

Or. en

Amendment 132

Proposal for a regulation Article 14 – paragraph 7

Text proposed by the Commission

7. Where *the third country* nationals referred to in Article(s) 3(1) and Article 5 are referred to an appropriate procedure regarding asylum or return, the screening ends. Where not all the checks have been completed within the deadlines referred to in Article 6(3) *and (5)*, the screening shall nevertheless end with regard to that person, who shall be referred to a relevant procedure.

Amendment

7. Where *third-country* nationals referred to in Article 3(1) and *(2) of this Regulation* are referred to an appropriate procedure regarding asylum or return, *or where entry is refused in accordance with Article 14 of Regulation 2016/399*, the screening ends. Where not all the checks have been completed within the deadlines referred to in Article 6(3), the screening shall nevertheless end with regard to that person, who shall be referred to a relevant procedure. *Where it becomes apparent during the screening that the third-country national concerned fulfils the entry conditions set out in Article 6 of Regulation (EU) 2016/399, the screening shall end.*

Or. en

Amendment 133

Proposal for a regulation Article 14 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Persons identified as stateless or at risk of statelessness during the screening shall be referred to the competent authorities, which shall determine whether the individual is stateless and offer adequate protection, in accordance with national law.

Or. en

Amendment 134

Proposal for a regulation Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14a

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.**
- 2. The power to adopt delegated acts referred to in Article 12(5) shall be conferred on the Commission for a period of three years from ... [date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the three-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.**
- 3. The delegation of power referred**

to in Article 12(5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 12(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.

Or. en

Amendment 135

Proposal for a regulation

Article 16

Regulation (EC) No 767/2008

Article 6 – paragraph 2

Article 16

deleted

**Amendments to Regulation (EC) No
767/2008**

**Regulation (EC) No 767/2008 is amended
as follows:**

**(1) In Article 6, paragraph 2 is
replaced by the following:**

**2. Access to the VIS for the purposes
of consulting the data shall be reserved
exclusively for the duly authorised staff of
the ETIAS Central Unit, of the national
authorities of each Member State,
including to duly authorised staff of the
ETIAS National Units, designated
pursuant to Article 8 of Regulation (EU)
2018/1240 of the European Parliament
and of the Council, which are competent
for the purposes laid down in Articles 15
to 22, for the duly authorised staff of the
national authorities of each Member
States and of the Union agencies, which
are competent for the purposes laid down
in Articles 20 and 21 of Regulation
2019/817, and for the competent
authorities provided under Article 6(6) of
Regulation (EU) 2020/XXX of the
European Parliament and of the
Council³⁷. Such access shall be limited
according to the extent that the data are
required for the performance of their
tasks for those purposes, and
proportionate to the objectives pursued.;**

³⁷ **Regulation (EU) No XXX of the
European Parliament and of the Council
of [...] introducing a screening of third
country nationals at the external borders
and amending Regulations (EC) No
767/2008, (EU) 2017/2226, (EU)
2018/1240 and (EU) 2019/817].**

Justification

The Rapporteur is not convinced that the provisions granting blanket access rights to the competent authorities are necessary to allow for the screening to be carried out effectively.

Amendment 136

Proposal for a regulation

Article 17

Regulation (EU) 2017/2226

Article 6(1) – Article 9(1) – Article 9(4)

Text proposed by the Commission

Amendment

Article 17

deleted

**Amendments to Regulation (EU)
2017/2226**

Regulation (EU) 2017/2226 is amended as follows:

(1) In Article 6(1), the following point (1) is added:

(1) support the objectives of the screening established by Regulation (EU) 2020/XXX of the European Parliament and of the Council³⁸, in particular for the checks provided under Article 10 thereof.

(2) Article 9 is amended as follows:

(a) paragraph 1 is replaced by the following:

2a. The competent authorities referred to in Article 5(6) of Regulation (EU) 2020/XXX shall have access to the EES to consult data.;

(b) paragraph 4 is replaced by the following:

Access to the EES data stored in the CIR shall be reserved exclusively for the duly authorised staff of the national authorities of each Member State and for the duly authorised staff of the Union agencies that are competent for the purposes laid down in Article 20, Article 20a and Article 21 of Regulation (EU) 2019/817. Such

access shall be limited according to the extent that the data are required for the performance of their tasks for those purposes, and proportionate to the objectives pursued.

³⁸ *Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].*

Or. en

Justification

The Rapporteur is not convinced that the provisions granting blanket access rights to the competent authorities are necessary to allow for the screening to be carried out effectively.

Amendment 137

Proposal for a regulation
Article 18
Regulation (EU) 2018/1240
Article 4(a) – Article 13(5)

Text proposed by the Commission

Amendment

Article 18

deleted

*Amendments to Regulation (EU)
2018/1240*

Regulation (EU) 2018/1240 is amended as follows:

(1) In Article 4, point (a) is replaced by the following:

(a) contribute to a high level of security by providing for a thorough assessment of applicants as regards the risk they may pose to internal security, prior to their arrival at external border crossing points, and of persons subject to the screening referred to in Regulation (EU) 2020/XXX of the European

*Parliament and of the Council*³⁹
[Screening Regulation], in order to determine whether there are factual indications or reasonable grounds based on factual indications to conclude that the presence of the person on the territory of the Member States poses a security risk;

(2) In Article 13, paragraph 5 is replaced by the following:

5. Each Member State shall designate the competent national authorities referred to in paragraphs 1, 2 and 4 of this Article, and the competent authority referred to in Article 5(6) of Regulation (EU) 2020/XXX, and shall communicate a list of those authorities to eu-LISA without delay, in accordance with Article 87(2) of this Regulation. That list shall specify for which purpose the duly authorised staff of each authority shall have access to the data in the ETIAS Information System in accordance with paragraphs 1, 2 and 4 of this Article.

³⁹ Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].

Or. en

Justification

The Rapporteur is not convinced that the provisions granting blanket access rights to the competent authorities are necessary to allow for the screening to be carried out effectively.

Amendment 138

Proposal for a regulation Annex 1 – point 5

Text proposed by the Commission

5. Nationality/ies (initial indication):

Amendment

5. Nationality/ies **or statelessness** (initial indication):

Or. en

Amendment 139

**Proposal for a regulation
Annex 1 – point 7**

Text proposed by the Commission

7. Reason **to perform screening**:

A. Irregular entry

**Please specify also, as appropriate:
no/forged/ falsified travel document,
no/forged/ falsified visa or travel
authorisation,**

B. Arrival via search and rescue

C. Application for international protection
at a Border Crossing Point

**D. no indication of a border check at an
external border:**

**no stamp in a travel document/no
entry in the Entry Exit System**

no travel document

Amendment

7. Reason **for which the screening
was performed**:

A. Irregular entry

deleted

deleted

deleted

B. Arrival via search and rescue

C. Application for international protection
at a Border Crossing Point

deleted

deleted

deleted

Or. en

Amendment 140

**Proposal for a regulation
Annex 1 – point 7a new**

Text proposed by the Commission

Amendment

7a. Has an application for international protection been made?

Or. en

Amendment 141

**Proposal for a regulation
Annex 1 – point 7b new**

Text proposed by the Commission

Amendment

7b. Are there family members or relatives located on the territory of a Member State?

If yes, please provide details of the relevant family member(s) or relative(s) and the relevant Member State

Or. en

Amendment 142

**Proposal for a regulation
Annex 1 – point 10a new**

Text proposed by the Commission

Amendment

10a. Vulnerability, special reception or procedural needs check was carried out:

Yes **No**

If yes, result of vulnerability, special reception or procedural needs:

Or. en

Amendment 143

Proposal for a regulation Annex 1 – point 12

Text proposed by the Commission

- a) places/countries of previous residence:
- b) point of departure:
- c) third countries and places (e.g. city, province) of transit and the duration of stay:
- d) modalities of transit (e.g. means of transportation, with a group, individual), assistance received (e.g. facilitators, modes of communication used), payments made/to be made, etc.:
- e) third countries where protection was sought:***
- f) third countries where protection was granted:***
- g) intended destination within the Union:

Amendment

- a) places/countries of previous residence:
- b) point of departure:
- c) third countries and places (e.g. city, province) of transit and the duration of stay:
- d) modalities of transit (e.g. means of transportation, with a group, individual), assistance received (e.g. facilitators, modes of communication used), payments made/to be made, etc.:
- deleted***
- deleted***
- g) intended destination within the Union:

Or. en

Amendment 144

Proposal for a regulation Annex 1 – point 13

Text proposed by the Commission

13. Assistance provided for remuneration by third person or organisation in relation to irregular crossing of the border and any related information in case of suspected smuggling:

Amendment

deleted

Or. en

EXPLANATORY STATEMENT

The Rapporteur will present hereafter the main reasons for the amendments presented in the draft report on the proposal for a Regulation of the European Parliament and of the Council introducing a screening of third country nationals at the external borders and amending Regulation 2020/0278 (COD) adopted by the Commission in September 2020.

Introduction

Since the appointment of the Rapporteur on 9 November 2020, several exchanges of views took place, including six meetings with the shadow Rapporteurs, as well as meetings with external stakeholders. In addition, a LIBE hearing was organised on 27 May 2021.

The Rapporteur shares the overall objective of the Commission to seek to establish quickly the identity of third country nationals, any needs for immediate health care or isolation on public health grounds, vulnerabilities, special reception or procedural needs and potential security risks and refer the persons to the appropriate procedure. The Rapporteur therefore proposes amendments to the Commission's proposal for a Regulation, in order to create an efficient, speedy procedure, which fully respects fundamental rights and ensures legal certainty and strengthens the fundamental rights monitoring mechanism.

The Rapporteur regrets that the Commission did not produce an impact assessment for the proposals, in particular given the potential serious effects on fundamental rights of third-country nationals and the complexity of the migration and asylum system proposed in the New Pact on Migration and Asylum. The Rapporteur would like to express her gratitude to the European Parliamentary Research Service Ex-Ante Impact Assessment Unit and the respective contractors for the work on the horizontal substitute impact assessment on the New Pact on Migration and Asylum. The Rapporteur would also like to express her gratitude to the authors of the study by the European Parliament Policy Department for Citizens' Rights and Constitutional Affairs.

Main elements of the draft report

1. The authorisation to enter the territory of a Member State

The Commission proposed that during the screening the persons subject to the screening should not be authorised to enter the territory of a Member State despite being physically present on the territory of a Member State, regardless of a potential application for international protection (legal fiction of non-entry). The Commission furthermore suggested that certain elements of the current asylum acquis should only take effect after the screening has concluded.

The Rapporteur recalls that in accordance with the existing Asylum Procedure Directive and the proposal for the Asylum Procedure Regulation, applicants for international protection have the right to remain in the Member State pending the examination of the application. Thus, the Rapporteur introduces a reference to this end. In addition, to allow applicants for international

protection to make effective use of the right to remain, the Rapporteur introduces a right for those persons to enter the territory, in line with the derogations in the Schengen Borders Code allowed for asylum seekers.

In addition, several stakeholders pointed out that the legal fiction of non-entry would be difficult to apply, in practice, without the comprehensive use of detention or other forms of de-facto detention or deprivation of liberty. Furthermore, the substitute impact assessment concluded, the proposed indiscriminate non-entry policies make compliance with the guarantees of the Reception Conditions Directive and the Return Directive “impossible”.

To ensure compliance with the current asylum acquis, in particular regarding the use of detention, the Rapporteur introduces amendments to ensure the Reception Conditions Directive applies in the screening from the moment an application for international protection is made.

2. Screening within the territory

The Commission proposal included the obligation on Member States to apply the screening also to third-country nationals found within the territory where there is no indication that they have crossed an external border in an authorised manner.

The rapporteur considers this requirement disproportionate for both the subject of the screening and the affected Member State. In addition, the substitute impact assessment concluded that Article 77(2)(b) TFEU as the legal basis proposed for the screening does not allow for the proposed measures. Therefore, the Rapporteur deletes Article 5 and all corresponding references.

3. Requirements concerning the screening

For the screening, the Commission proposed several requirements and elements for the screening, such as an obligation to conduct the screening at or in proximity to the border; to conclude the screening within five days, extendable once by five days in exceptional circumstances; health checks only in specific cases at the discretion of the competent authorities; vulnerability checks only where relevant; identity and security checks; and the provision of information.

The Rapporteur considers that Member States should not be obliged to conduct the screening at or in proximity to the external borders, but should be free to choose any appropriate location within the territory of a Member State. Several stakeholders highlighted practical difficulties in concluding all parts of the screening within five or even ten days. Therefore, the rapporteur deletes the possibility to extend the screening, which should also contribute to the swift referral to the appropriate subsequent procedure, in which to outstanding checks can be completed.

In addition, to identify potential health issues, vulnerabilities or special reception or procedural needs as early as possible and to further contribute to the correct referral to a subsequent procedure, the Rapporteur introduces amendments to include health and vulnerability checks as mandatory elements of the screening. Additionally, the Rapporteur introduces a new article to ensure special guarantees for unaccompanied minors during the screening, in particular the availability of a representative. Lastly, to ensure the effective provision of information, the Rapporteur introduces amendments to strengthen the likelihood of the person concerned

understanding the provided information.

4. The monitoring of fundamental rights

The Commission proposed to introduce an independent monitoring mechanism to ensure compliance with EU and international law during the screening and that Member States adopt relevant provision to investigate allegations of non-respect for fundamental rights.

The Rapporteur explicitly welcomes this proposal by the Commission as a highly relevant and beneficial addition. In order to strengthen the mechanism and to ensure its independence, the Rapporteur widens the scope of the mechanism beyond the screening procedure and introduces an obligation to involve non-governmental institutions and organisations in the mechanism. In accordance with the recommendation made by the European Data Protection Supervisor (EDPS) and due to the collection of a significant amount of data during the screening, the Rapporteur also considers that the mechanism should establish close links with the EDPS and national data protection authorities.

Moreover, the Rapporteur maintains the obligation on Member States to investigate allegations of non-respect and adds, the mechanism should be able to trigger such investigations and Member States shall provide for penalties for the failure to respect fundamental rights.

5. Outcome of the screening

In its proposal the Commission introduced a de-briefing form on completion of the screening, which includes the relevant collected data. This form should be referred to the relevant authorities responsible for the three potential outcomes of the screening, namely an asylum procedure, a return procedure or a refusal of entry but not provided to the subject of the screening.

The Rapporteur considers it essential that the subject of the screening receives a copy of the de-briefing form for the exercise of the rights referred to in the General Data Protection Regulation. Therefore, the Rapporteur introduces amendments to ensure a copy of the form is provided at the same time as the transmission to the relevant authorities. Furthermore, the Rapporteur includes the possibility for the Member States to apply during the screening the same derogations on entry conditions for third-country nationals as specified in Article 6(5) of the Schengen Borders Code.

6. Access expansion to IT-databases

As part of the identity and security checks, the Commission included in its proposal the possibility to query and access rights for the competent authorities for the screening to the common identity repository (CIR), the Visa Information System (VIS), the Entry/Exit System (EES), and the European Travel Information and Authorisation System (ETIAS).

The Rapporteur agrees that to exercise the identification or verification and security checks the relevant databases should be queried, while at the same time considering issues highlighted by the horizontal impact assessment that this expansion may go “beyond the limits foreseen in relation to law enforcement access to EU migration databases”.

In short, the Rapporteur is not convinced that the provisions granting blanket access rights to the competent authorities and consultation of all proposed databases are necessary to allow for the screening to be carried out effectively. Thus, the Rapporteur has deleted a number of the provisions while retaining access to the Common Identity Repository, which is essential to seek to identify or verify the identity of a third-country national in one go, while maintaining the possibility to query the system through the same authorities that currently have access rights. This is also in line with commitments made by the Commission during the legislative process of the respective files to refrain from proposing ever further access rights.