



Plenary sitting

A8-0347/2018

19.10.2018

*****I**
REPORT

on the amended proposal for a regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (borders and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399, Regulation (EU) 2017/2226, Regulation (EU) 2018/XX [the ETIAS Regulation], Regulation (EU) 2018/XX [the Regulation on SIS in the field of border checks] and Regulation (EU) 2018/XX [the eu-LISA Regulation]
(COM(2018)0478 – C8-0294/2018 – 2017/0351(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Jeroen Lenaers

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 amended proposal for a regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (borders and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399, Regulation (EU) 2017/2226, Regulation (EU) 2018/XX [the ETIAS Regulation], Regulation (EU) 2018/XX [the Regulation on SIS in the field of border checks] and Regulation (EU) 2018/XX [the eu-LISA Regulation] (COM(2018)0478 – C8-0294/2018 – 2017/0351(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0793) and the amended proposal (COM(2018)0478),
 - having regard to Article 294(2) and Article 16(2), Article 74 and points (a), (b), (d) and (e) of Article 77(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0294/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - 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 and the opinion of the Committee on Budgets (A8-0347/2018),
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 Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) In his Opinion 4/2018 of 16 April 2018^{1a}, the European Data Protection Supervisor emphasised that the decision to make large-scale IT systems

interoperable would not only permanently and profoundly affect their structure and their way of operating, but would also change the way legal principles have been interpreted in this area so far and would as such mark a ‘point of no return’.

1a

http://edps.europa.eu/sites/edp/files/publication/2018-04-16_interoperability_opinion_en.pdf

Amendment 2

Proposal for a regulation Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) In its Opinion of 11 April 2018^{1a}, the Article 29 Data Protection Working Party reiterated that the process towards interoperability of systems raises fundamental questions regarding the purpose, necessity, proportionality of the data processing as well as concerns regarding the principles of purpose limitation, data minimization, data retention and clear identification of a data controller.

1a

http://ec.europa.eu/newsroom/article29/document.cfm?action=display&doc_id=51517

Amendment 3

Proposal for a regulation Recital 9

Text proposed by the Commission

Amendment

(9) *With a view* to improve the management of the external borders, to

(9) *In order* to improve the management of the external borders, *to*

contribute to preventing and combating irregular migration and to contribute to a high level of security within the area of freedom, security and justice of the Union, including the maintenance of public security and public policy and safeguarding the security in the territories of the Member States, interoperability between *EU* information systems, namely [the Entry/Exit System (EES)], the Visa Information System (VIS), [the European Travel Information and Authorisation System (ETIAS)], Eurodac, the Schengen Information System (SIS), and the [European Criminal Records Information System for third-country nationals (ECRIS-TCN)] should be established in order for these *EU* information systems and their data to supplement each other. To achieve this, a European search portal (ESP), a shared biometric matching service (shared BMS), a common identity repository (CIR) and a multiple-identity detector (MID) should be established as interoperability components.

facilitating regular border crossings, to contribute to preventing and combating irregular migration and to contribute to a high level of security within the area of freedom, security and justice of the Union, including the maintenance of public security and public policy and safeguarding the security in the territories of the Member States, *to improve the implementation of the common visa policy and to assist in examining applications for international protection, and to assist in the prevention, detection and investigation of terrorist offences or other serious criminal offences, in order to maintain public trust in the Union migration and asylum system, Union security measures and Union capabilities to manage the external border*, interoperability between *Union* information systems, namely the Entry/Exit System (*the* EES), the Visa Information System (VIS), [the European Travel Information and Authorisation System (ETIAS)], Eurodac, the Schengen Information System (SIS), and the [European Criminal Records Information System for third-country nationals (ECRIS-TCN)] should be established in order for these *Union* information systems and their data to supplement each other *so far as that is possible while respecting the fundamental rights of the individual, in particular the right to protection of personal data*. To achieve this, a European search portal (ESP), a shared biometric matching service (shared BMS), a common identity repository (CIR) and a multiple-identity detector (MID) should be established as interoperability components.

Amendment 4

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) The interoperability between the

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Amendment

(10) The interoperability between the

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PE622.263v04-00

EU information systems should allow said systems to supplement each other in order to facilitate the correct identification of persons, contribute to fighting identity fraud, improve and harmonise data quality requirements of the respective *EU* information systems, **facilitate the technical and operational implementation by Member States of existing and future *EU* information systems**, strengthen and simplify the data security and data protection safeguards that govern the respective *EU* information systems, streamline **the law enforcement** access to the EES, **the VIS, the [ETIAS]** and Eurodac, and support the purposes of the EES, **the VIS, the [ETIAS], Eurodac, the SIS and the [ECRIS-TCN system]**.

Union information systems should allow said systems to supplement each other in order to facilitate the correct identification of persons, **for the purpose of applications of international protection or in the context of the prevention, detection and investigation of serious criminal offences - including terrorist offences**, to contribute to fighting identity fraud, improve and harmonise data quality requirements of the respective *Union* information systems, **to contribute to ensuring the effective use of *Union* information systems, Europol data and Interpol databases by facilitating access to them by the authorities in accordance with their access rights and the objectives and purposes as laid down in the legal instruments governing the respective systems**, to strengthen and simplify **and harmonise** the data security and data protection safeguards that govern the respective *Union information systems, in particular by ensuring that all *Union* data protection rules are applicable to all the information systems, and to streamline and simplify designated authorities access to the EES, VIS, [ETIAS] and Eurodac, and support the purposes of the EES, VIS, [ETIAS], Eurodac, SIS and [ECRIS-TCN].*

Amendment 5

Proposal for a regulation Recital 11

Text proposed by the Commission

(11) The interoperability components should cover the EES, the VIS, the [ETIAS], Eurodac, the SIS, and the [ECRIS-TCN system]. They should also cover the Europol data to the extent of enabling **it** to be queried simultaneously with these *EU* information systems.

Amendment

(11) The interoperability components should cover the EES, the VIS, the [ETIAS], Eurodac, the SIS, and the [ECRIS-TCN system]. They should also cover the Europol data **only** to the extent of enabling **that data** to be queried simultaneously with these *Union* information systems.

Amendment 6

Proposal for a regulation Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) Children and vulnerable persons merit specific protection with regard to their personal data, as they may be less aware of the risks, consequences and safeguards concerned and their rights in relation to the processing of personal data. The interoperability components should be designed so that particular attention is paid to the protection of children and that their rights and integrity are fully respected.

Amendment 7

Proposal for a regulation Recital 13

Text proposed by the Commission

Amendment

(13) The ***European search portal (ESP)*** should be established to facilitate technically the ability of Member State authorities and ***EU bodies*** to have ***fast, seamless, efficient, systematic and*** controlled access to the ***EU*** information systems, the Europol data and the Interpol databases needed to perform their tasks, in accordance with their access rights, and to support the objectives of the EES, ***the*** VIS, ***the*** [ETIAS], Eurodac, ***the*** SIS, ***the*** [ECRIS-TCN ***system***] and ***the*** Europol data. Enabling the simultaneous querying of all relevant ***EU*** information systems in parallel, as well as of ***the*** Europol data and the Interpol databases, the ESP should act as a single window or ‘message broker’ to search various central systems and retrieve the necessary information seamlessly and in full respect of the access control and data protection requirements of the

(13) The ***ESP*** should be established to facilitate technically the ability of ***the authorised*** Member State authorities and ***Union agencies*** to have controlled access to the ***relevant Union*** information systems, the Europol data and the Interpol databases ***insofar as this is*** needed to perform their tasks, in accordance with their access rights, and to support the objectives of the EES, VIS, [ETIAS], Eurodac, SIS, [ECRIS-TCN] and Europol data. Enabling the simultaneous querying of all relevant ***Union*** information systems in parallel, as well as of Europol data and the Interpol databases, the ESP should act as a single window or ‘message broker’ to search various central systems and retrieve the necessary information seamlessly and in full respect of the access control and data protection requirements of the underlying systems.

underlying systems.

Amendment 8

Proposal for a regulation

Recital 14

Text proposed by the Commission

Amendment

(14) *The International Criminal Police Organisation (Interpol) database of Stolen and Lost Travel Documents (SLTD) enables authorised law enforcement entities in Member States, including immigration and border control officers, to establish the validity of a travel document. The [ETIAS] queries the SLTD and Interpol's Travel Documents Associated with Notices (TDAWN) database in the context of assessing whether a person applying for a travel authorisation is likely for instance to migrate irregularly or could pose a threat to security. The centralised European search portal (ESP) should enable the query against the SLTD and TDAWN databases using an individual's identity data. Where personal data are transferred from the Union to Interpol through the ESP, the provisions on international transfers in Chapter V of Regulation (EU) 2016/679 of the European Parliament and of the Council⁵³, or the national provisions transposing Chapter V of Directive (EU) 2016/680 of the European Parliament and of the Council⁵⁴ should apply. This should be without prejudice to the specific rules laid down in Council Common Position 2005/69/JHA⁵⁵ and Council Decision 2007/533/JHA⁵⁶.* *deleted*

⁵³ *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, p. 1).

⁵⁴ 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 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 (OJ L 119, 4.5.2016, p. 89).

⁵⁵ Council Common Position 2005/69/JHA of 24 January 2005 on exchanging certain data with Interpol (OJ L 27, 29.1.2005, p. 61).

⁵⁶ Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) (OJ L 205, 7.8.2007, p. 63).

Amendment 9

Proposal for a regulation

Recital 16

Text proposed by the Commission

(16) To ensure fast and **systematic** use of all **EU** information systems, the **European search portal** (ESP) should be used to query the common identity repository, the EES, **the** VIS, [**the** ETIAS], Eurodac and [**the** ECRIS-TCN system]. However, the national connection to the different **EU** information systems should remain in order to provide a technical fall back. The ESP should also be used by Union **bodies** to query the Central SIS in accordance with their access rights and in order to perform their tasks. The ESP

Amendment

(16) To ensure fast and **seamless** use of all **relevant Union** information systems, the ESP should be used to query the common identity repository, the EES, VIS, ETIAS, Eurodac and [ECRIS-TCN]. **A central Union backup ESP should be established in order to provide all the functionalities of the principal ESP and a similar level of performance as it in the event of its failure.** However, the national connection to the different **relevant Union** information systems should remain in order to provide a technical fall back. The ESP

should be an additional means to query the Central SIS, *the* Europol data and the Interpol systems, complementing the existing dedicated interfaces.

should also be used by Union *agencies* to query the Central SIS in accordance with their access rights and in order to perform their tasks. The ESP should be an additional means to query the Central SIS, Europol data and the Interpol systems, complementing the existing dedicated interfaces.

Amendment 10

Proposal for a regulation

Recital 17

Text proposed by the Commission

(17) Biometric data, *such as* fingerprints and facial images, are unique and therefore much more reliable than alphanumeric data for identifying a person. *The shared biometric matching service* (shared BMS) should be a technical tool to reinforce and facilitate the work of the relevant *EU* information systems and the other interoperability components. The main purpose of the shared BMS should be to facilitate the identification of an individual who may be registered in different databases, by matching their biometric data across different systems and by relying on one unique technological component instead of five different ones in each of the underlying systems. The shared BMS should contribute to security, as well as financial, maintenance and operational benefits by relying on one unique technological component instead of different ones in each of the underlying systems. All automated fingerprint identification systems, including those currently used for Eurodac, *the* VIS and *the* SIS, use biometric templates comprised of data derived from a feature extraction of actual biometric samples. The shared BMS should regroup and store all these biometric templates in one single location, facilitating cross-system comparisons using biometric *data* and enabling economies of

Amendment

(17) Biometric data, *that in the content of this regulation entails* fingerprints and facial images *only and therefore excludes hand palm prints*, are unique and therefore much more reliable than alphanumeric data for identifying a person. *However, biometric data constitute sensitive personal data. This Regulation should therefore lay down the basis of and the safeguards for processing of such data for the purpose of uniquely identifying the persons concerned.* Shared BMS should be a technical tool to reinforce and facilitate the work of the relevant *Union* information systems, *the effective use of Europol data and the other interoperability components. The SBMS should replace the Automated Fingerprint Identification Systems of respectively the EES, VIS, SIS, Eurodac and [ECRIS-TCN] and should therefore not duplicate either the storage of the biometric data nor the storage of biometric templates.* The main purpose of the shared BMS should be to facilitate the identification of an individual who may be registered in different databases, by matching their biometric data across different systems and by relying on one unique technological component instead of five different ones in each of the underlying systems. The shared BMS should contribute to security, as well as

scale in developing and maintaining the *EU* central systems.

financial, maintenance and operational benefits by relying on one unique technological component instead of different ones in each of the underlying systems. All automated fingerprint identification systems, including those currently used for Eurodac, VIS and SIS, use biometric templates comprised of data derived from a feature extraction of actual biometric samples. The shared BMS should regroup and store all these biometric templates – *logically separated according to the information system from which the data originated* – in one single location, *thereby* facilitating cross-system comparisons using biometric *templates* and enabling economies of scale in developing and maintaining the *Union* central systems.

Amendment 11

Proposal for a regulation Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) The biometric templates stored in the shared BMS which are comprised of data derived from a feature extraction of actual biometric samples should be obtained in such a way that reverting the process is not possible. Indeed, biometric templates should be obtained from biometric data but it should not be possible to obtain that same biometric data from the biometric templates.

Amendment 12

Proposal for a regulation Recital 18

Text proposed by the Commission

Amendment

(18) Biometric data constitute sensitive personal data. This regulation should lay

deleted

down the basis for and the safeguards for processing of such data for the purpose of uniquely identifying the persons concerned.

Amendment 13

Proposal for a regulation

Recital 19

Text proposed by the Commission

(19) The systems established by Regulation (EU) 2017/2226 of the European Parliament and of the Council⁵⁷, Regulation (EC) No 767/2008 of the European Parliament and of the Council⁵⁸, [the ETIAS Regulation] for the management of the borders of the Union, the system established by [the Eurodac Regulation] to identify the applicants for international protection and combat irregular migration, and the system established by [the ECRIS-TCN system Regulation] require ***in order to be effective to rely on*** the accurate identification of ***the*** third-country nationals whose personal data are stored therein.

⁵⁷ Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (EES Regulation) (OJ L 327, 9.12.2017, p. 20–82).

⁵⁸ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa

Amendment

(19) The systems established by Regulation (EU) 2017/2226 of the European Parliament and of the Council⁵⁷, Regulation (EC) No 767/2008 of the European Parliament and of the Council⁵⁸, [the ETIAS Regulation] for the management of the borders of the Union, the system established by [the Eurodac Regulation] to identify the applicants for international protection and combat irregular migration, and the system established by [the ECRIS-TCN system Regulation] require the accurate identification of ***those*** third-country nationals whose personal data are stored therein.

⁵⁷ Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (EES Regulation) (OJ L 327, 9.12.2017, p. 20–82).

⁵⁸ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa

Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

Justification

Linguistic change

Amendment 14

Proposal for a regulation

Recital 25

Text proposed by the Commission

(25) The **common identity repository (CIR)** should provide for a shared container for identity and biometric data of third-country nationals registered in the EES, **the** VIS, [**the** ETIAS], Eurodac and **the** [ECRIS-TCN **system**], serving as the shared component between these systems for storage of this data, and to allow its querying.

Amendment

(25) The **CIR** should provide for a shared container for identity and biometric data of third-country nationals registered in the EES, VIS, [ETIAS], Eurodac and [ECRIS-TCN], serving as the shared component between these systems for storage of this data, and to allow its querying. **A central Union backup CIR should be established in order to provide all the functionalities of the principal CIR and a similar level of performance as it in the event of its failure.**

Amendment 15

Proposal for a regulation

Recital 27

Text proposed by the Commission

(27) In order to **ensure** the correct identification of a person, Member State **authorities competent for preventing and combating irregular migration and** competent authorities within the meaning of Article 3(7) of Directive 2016/680 should be allowed to query the **common identity repository (CIR)** with the biometric data of that person taken during an identity check.

Amendment

(27) In order to **assist in** the correct identification of a person, **where a** Member State **police authority has been unable to identify that person on the basis of a query of the CIR using a travel document or the identity data provided by that person, or where there are doubts as to the authenticity of the travel document or the identity of its holder, or where the person is unable or refuses to cooperate, a Member State** competent authorities within

the meaning of Article 3(7) of Directive 2016/680, **following rules and procedures provided for in national law**, should be allowed to query the *CIR* with the biometric data of that person taken during an identity check, **provided always that the person concerned is physically present during such a check.**

Amendment 16

Proposal for a regulation

Recital 28

Text proposed by the Commission

(28) *Where the biometric data of the person cannot be used or if the query with that data fails, the query should be carried out with identity data of that person in combination with travel document data. Where the query indicates that data on that person are stored in the common identity repository (CIR), Member State authorities should have access to consult the identity data of that person stored in the CIR, without providing any indication as to which EU information system the data belongs to.*

Amendment

deleted

Amendment 17

Proposal for a regulation

Recital 30

Text proposed by the Commission

(30) This Regulation should also introduces a new possibility for streamlined access to data beyond identity data present in the EES, *the* VIS, [*the* ETIAS] or Eurodac by Member State designated **law enforcement** authorities and Europol. Data, including data other than identity data contained in those systems, may be necessary for the

Amendment

(30) This Regulation should also introduces a new possibility for streamlined access to data beyond identity data present in the EES, VIS, [ETIAS] or Eurodac by Member State designated authorities and Europol. Data, including data other than identity data contained in those systems, may be necessary for the prevention, detection, investigation and

prevention, detection, investigation and prosecution of terrorist offences or serious criminal offences in a specific case.

prosecution of terrorist offences or serious criminal offences in a specific case *where there are reasonable grounds to consider that consultation will substantially contribute to the prevention, detection or investigation of the criminal offences in question, in particular where there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls under the category of third-country nationals whose data are stored in the EES, VIS, ETIAS and Eurodac. Such streamlined access should be provided after a prior search in the national databases has been carried out and a query of the automated fingerprint identification system of the other Member States under Council Decision 2008/615/JHA^{1a} has been launched.*

^{1a} Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 1).

Amendment 18

Proposal for a regulation

Recital 31

Text proposed by the Commission

(31) Full access to the necessary data contained in the *EU* information systems necessary for the purposes of preventing, detecting and investigating terrorist offences or other serious criminal offences, beyond the relevant identity data covered under *common identity repository* (CIR) obtained using biometric data of that person taken during an identity check, should continue to be governed by the provisions in the respective legal instruments. The designated *law enforcement* authorities and Europol do

Amendment

(31) Full access to the necessary data contained in the *Union* information systems necessary for the purposes of preventing, detecting and investigating terrorist offences or other serious criminal offences, beyond the relevant identity data covered under CIR obtained using biometric data of that person taken during an identity check, should continue to be governed by the provisions in the respective legal instruments. The designated authorities and Europol do not know in advance which of the *Union*

not know in advance which of the *EU* information systems contains data of the persons they need to inquire upon. This results in delays and inefficiencies in the conduct of their tasks. The end-user authorised by the designated authority should therefore be allowed to see in which of the *EU* information systems the data corresponding to the query introduced are recorded. The concerned system would thus be flagged following the automated verification of the presence of a hit in the system (a so-called hit-flag functionality).

information systems contains data of the persons they need to inquire upon. This results in delays and inefficiencies in the conduct of their tasks. The end-user authorised by the designated authority should therefore be allowed to see in which of the *Union* information systems the data corresponding to the query introduced are recorded. The concerned system would thus be flagged following the automated verification of the presence of a hit in the system (a so-called hit-flag functionality) ***after necessary checks in national databases and after a query of the automated fingerprint identification system of the other Member States under Decision 2008/615/JHA has been launched.***

Amendment 19

Proposal for a regulation Recital 33

Text proposed by the Commission

(33) The query of the ***common identity repository*** (CIR) by Member State designated authorities and Europol in order to obtain a hit-flag type of response indicating the data is recorded in the EES, ***the*** VIS, [***the*** ETIAS] or Eurodac requires automated processing of personal data. A hit-flag ***would not*** reveal personal data of the concerned individual other than an indication that some of his or her data are stored in one of the systems. No adverse decision for the concerned individual should be made by the authorised end-user solely on the basis of the simple occurrence of a hit-flag. Access by the end-user of a hit-flag would therefore realise a very limited interference with the right to protection of personal data of the concerned individual, while it would be necessary to allow the designated authority and Europol to address its request for access for personal data more effectively

Amendment

(33) The query of the CIR by Member State designated authorities and Europol in order to obtain a hit-flag type of response indicating the data is recorded in the EES, VIS, [ETIAS] or Eurodac requires automated processing of personal data. A hit-flag ***should*** reveal ***only*** personal data of the concerned individual other than an indication that some of his or her data are stored in one of the systems, ***provided the authority making the search has access to that system.*** No adverse decision for the concerned individual should be made by the authorised end-user solely on the basis of the simple occurrence of a hit-flag, ***and the hit-flag should be used by the relevant authorities only for the purpose of deciding which database to query.*** Access by the end-user of a hit-flag would therefore realise a very limited interference with the right to protection of personal data of the concerned individual, while it would

directly to the system that was flagged as containing it.

be necessary to allow the designated authority and Europol to address its request for access for personal data more effectively directly to the system that was flagged as containing it.

Amendment 20

Proposal for a regulation

Recital 34

Text proposed by the Commission

(34) The two-step data consultation approach is particularly valuable in cases where the suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence is unknown. In those cases the common *identity repository* (CIR) should enable *identifying* the information system that knows the person in one single search. *By creating the obligation to use this new law enforcement access approach in these cases, access to the personal data stored in the EES, the VIS, [the ETIAS] and Eurodac should take place without the requirements of a prior search in national databases and the launch of a prior search in the automated fingerprint identification system of other Member States under Decision 2008/615/JHA. The principle of prior search effectively limits the possibility of Member State' authorities to consult systems for justified law enforcement purposes and could thereby result in missed opportunities to uncover necessary information. The requirements of a prior search in national databases and the launch of a prior search in the automated fingerprint identification system of other Member States under Decision 2008/615/JHA should only cease to apply once the alternative safeguard of the two-step approach to law enforcement access through the CIR has become operational.*

Amendment

(34) The two-step data consultation approach is particularly valuable in cases where the suspect, perpetrator or suspected victim of a terrorist offence or other serious criminal offence is unknown. In those cases the CIR should enable *the relevant designated authority to identify* the information system that knows the person in one single search, *following the necessary checks* in national databases and *once a query of* the automated fingerprint identification system of other Member States under Decision 2008/615/JHA *has been launched for the justified purposes of preventing, detecting or investigating terrorist offences or other serious criminal offences.*

Amendment 21

Proposal for a regulation Recital 36

Text proposed by the Commission

(36) *The possibility to achieve* the objectives of *the* EU information systems *is undermined by the current inability for* the authorities using *these* systems to conduct sufficiently reliable verifications of the identities of the third-country nationals whose data are stored in different systems. *That inability is determined by the fact that* the set of identity data stored in a given individual system may be fraudulent, *incorrect, or incomplete, and that* there is currently no *possibility to detect such* fraudulent, *incorrect or incomplete* identity data by way of comparison with data stored in another system. To remedy this situation it is necessary to have a technical instrument at Union level allowing accurate identification of third-country nationals for these purposes.

Amendment

(36) *To better realise* the objectives of EU information systems, the authorities using *those* systems *should be able* to conduct sufficiently reliable verifications of the identities of the third-country nationals whose data are stored in different systems. The set of identity data stored in a given individual system may be *incorrect, incomplete or* fraudulent, *and* there is currently no *way of detecting incorrect, incomplete or* fraudulent identity data by way of comparison with data stored in another system. To remedy this situation it is necessary to have a technical instrument at Union level allowing accurate identification of third-country nationals for these purposes.

Justification

The statistics on fraudulent identity data in EU information systems is, in itself, incomplete. However, the problems of incorrect and incomplete data is well known as set out in the Opinion of the EU Agency for Fundamental Rights on Interoperability (page 49).

Amendment 22

Proposal for a regulation Recital 37

Text proposed by the Commission

(37) The *multiple-identity detector* (MID) should create and *store links* between data in the different *EU* information systems in order to detect multiple identities, with the dual purpose of facilitating identity checks for bona fide travellers and combating identity fraud.

Amendment

(37) The MID should create and *store links* between data in the different *Union* information systems in order to detect multiple identities, with the dual purpose of facilitating identity checks for bona fide travellers and combating identity fraud. *The creation of those links constitutes*

The MID should *only* contain *the* links between individuals present in more than one *EU* information system, strictly limited to the data necessary to verify that a person is recorded lawfully or unlawfully under different biographical identities in different systems, or to clarify that two persons having similar biographical data may not be the same person. Data processing through the *European search portal (ESP)* and the shared *biometric matching service* (shared BMS) in order to link individual files across individual systems should be kept to an absolute minimum and therefore is limited to a multiple-identity detection at the time new data is added to one of the information systems included in the common identity repository and in *the* SIS. The MID should include safeguards against potential discrimination or unfavourable decisions for persons with multiple lawful identities.

automated decision-making as referred to in Regulation (EU) 2016/679 and Directive (EU) 2016/680 and therefore requires transparency towards the individuals affected and the implementation of necessary safeguards in accordance with Union data protection rules. The MID should contain links *only* between individuals present in more than one *Union* information system, strictly limited to the data necessary to verify that a person is recorded lawfully or unlawfully under different biographical identities in different systems, or to clarify that two persons having similar biographical data may not be the same person. Data processing through the *ESP* and the shared BMS in order to link individual files across individual systems *and the Europol database* should be kept to an absolute minimum and therefore is limited to a multiple-identity detection at the time new data is added to one of the *Union* information systems included in the common identity repository and in SIS. The MID should include safeguards against potential discrimination or unfavourable decisions for persons with multiple lawful identities.

Amendment 23

Proposal for a regulation Recital 41

Text proposed by the Commission

(41) Access to the *multiple-identity detector* (MID) by Member State authorities and *EU* bodies having access to at least one *EU* information system included in the *common identity repository* (CIR) or to *the* SIS should be limited to *so called* red links where the linked data shares the same biometric but different identity data and the authority responsible for the verification of different identities concluded it refers *unlawfully* to the same

Amendment

(41) Access to the MID by Member State authorities and *Union* bodies having access to at least one *Union* information system included in the CIR or to SIS should be limited to red links where the linked data shares the same biometric but different identity data and the authority responsible for the verification of different identities concluded it refers *in an unjustified manner* to the same person, or where the linked data has similar identity

person, or where the linked data has similar identity data and the authority responsible for the verification of different identities concluded it refers **unlawfully** to the same person. Where the linked identity data is not similar, a yellow link should be established and a manual verification should take place in order to confirm the link or change its colour accordingly.

data and the authority responsible for the verification of different identities concluded it refers **in an unjustified manner** to the same person. Where the linked identity data is not similar, a yellow link should be established and a manual verification should take place in order to confirm the link or change its colour accordingly.

Amendment 24

Proposal for a regulation Recital 43 a (new)

Text proposed by the Commission

Amendment

(43a) eu-LISA should develop and manage all interoperability components in such a way as to ensure fast, seamless, efficient, controlled access and full availability of such components with a response time in line with the operational needs of the Member States' authorities.

Amendment 25

Proposal for a regulation Recital 44

Text proposed by the Commission

Amendment

(44) eu-LISA should establish automated data quality control mechanisms and common data quality indicators. eu-LISA should be responsible **to develop** a central monitoring capacity for data quality **and to produce** regular data analysis reports to improve the control of implementation and application by Member States of **EU** information systems. The common quality indicators should include the minimum quality standards to store data in the **EU** information systems or the interoperability components. The goal of such a data quality standards should be for the **EU** information systems and

(44) eu-LISA should establish automated data quality control mechanisms and common data quality indicators. eu-LISA should **send out automatic and immediate warnings to the authority entering data if minimum data quality standards are not met. eu-LISA should** be responsible **for developing** a central monitoring capacity for data quality, **and for producing** regular data analysis reports to improve the control of implementation and application by Member States of **Union** information systems. The common quality indicators should include the minimum quality standards to store data in

interoperability components to automatically identify apparently incorrect or inconsistent data submissions so that the originating Member State is able to verify the data and carry out any necessary remedial actions.

the *Union* information systems or the interoperability components. The goal of such a data quality standards should be for the *Union* information systems and interoperability components to automatically identify apparently incorrect or inconsistent data submissions so that the originating Member State is able to verify the data and carry out any necessary remedial actions.

Amendment 26

Proposal for a regulation

Recital 46

Text proposed by the Commission

(46) The Universal Message Format (UMF) should establish a standard for structured, cross-border information exchange between information systems, authorities and/or organisations in the field of Justice and Home affairs. UMF should define a common vocabulary and logical structures for commonly exchanged information with the objective *to facilitate* interoperability by enabling the creation and reading of the contents of the exchange in a consistent and semantically equivalent manner.

Amendment

(46) The Universal Message Format (UMF) should establish a standard for structured, cross-border information exchange between information systems, authorities and/or organisations in the field of Justice and Home affairs. UMF should define a common vocabulary and logical structures for commonly exchanged information with the objective *of facilitating* interoperability by enabling the creation and reading of the contents of the exchange in a consistent and semantically equivalent manner.

Amendment 27

Proposal for a regulation

Recital 47

Text proposed by the Commission

(47) A central repository for reporting and statistics (CRRS) should be established to generate cross-system statistical data and analytical reporting for policy, operational and data quality purposes. eu-LISA should establish, implement and host the CRRS in its technical sites containing anonymous statistical data from the above-mentioned

Amendment

(47) A central repository for reporting and statistics (CRRS) should be established to generate cross-system statistical data and analytical reporting for policy, operational and data quality purposes *in line with the objectives of the underlying systems and in conformity with their respective legal bases*. eu-LISA should establish,

systems, the *common identity repository*, the *multiple-identity detector* and the shared *biometric matching service*. The data contained in the CRRS should not enable the identification of individuals. eu-LISA should render the data anonymous and should record such *anonymous* data in the CRRS. The process for rendering the data anonymous should be automated and no direct access by eu-LISA staff should be granted to any personal data stored in the *EU* information systems or in the interoperability components.

implement and host the CRRS in its technical sites containing anonymous statistical data from the above-mentioned systems, the *CIR*, the *MID* and the shared *BMS*. The data contained in the CRRS should not enable the identification of individuals. eu-LISA should *immediately* render the data anonymous and should record *only* such *anonymised* data in the CRRS. The process for rendering the data anonymous should be automated and no direct access by eu-LISA staff should be granted to any personal data stored in the *Union* information systems or in the interoperability components.

Amendment 28

Proposal for a regulation Recital 48

Text proposed by the Commission

(48) Regulation (EU) 2016/679 should apply to the processing of personal data under this Regulation by national authorities unless such processing is carried out by the designated authorities or central access points of the Member States for the purposes of the prevention, detection or investigation of terrorist offences or of other serious criminal offences, *when* Directive (EU) 2016/680 of the European Parliament and of the Council should apply.

Amendment

(48) Regulation (EU) 2016/679 should apply to the processing of personal data under this Regulation by national authorities unless such processing is carried out by the designated authorities or central access points of the Member States for the purposes of the prevention, detection or investigation of terrorist offences or of other serious criminal offences, *in which case* Directive (EU) 2016/680 of the European Parliament and of the Council should apply.

Amendment 29

Proposal for a regulation Recital 51

Text proposed by the Commission

(51) The national supervisory authorities established in accordance with [Regulation (EU) 2016/679] should monitor the lawfulness of the processing of personal

Amendment

(51) The national supervisory authorities established in accordance with Regulation (EU) 2016/679 *or Directive (EU) 2016/680* should monitor the

data by the Member States, whilst the European Data Protection Supervisor as established by Regulation (EC) No 45/2001 should monitor the activities of the Union institutions and bodies in relation to the processing of personal data. The European Data Protection Supervisor and the supervisory authorities should cooperate with each other in the monitoring of the processing of personal data *by interoperability components*.

lawfulness of the processing of personal data by the Member States, whilst the European Data Protection Supervisor as established by Regulation (EC) No 45/2001 should monitor the activities of the Union institutions and bodies in relation to the processing of personal data. The European Data Protection Supervisor and the supervisory authorities should cooperate with each other in the monitoring of the processing of personal data.

Amendment 30

Proposal for a regulation Recital 52

Text proposed by the Commission

(52) “(...) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on ... “

Amendment

(52) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on **16 April 2018**.

Amendment 31

Proposal for a regulation Recital 53

Text proposed by the Commission

(53) Insofar as confidentiality is concerned, the relevant provisions of the Staff Regulations of officials and the Conditions of Employment of other servants of the European Union should apply to officials or other servants employed and working in connection with *SIS*.

Amendment

(53) Insofar as confidentiality is concerned, the relevant provisions of the Staff Regulations of officials and the Conditions of Employment of other servants of the European Union should apply to officials or other servants employed and working in connection with *the data accessed through any of the interoperability components*.

Amendment 32

Proposal for a regulation
Recital 55

Text proposed by the Commission

(55) The implementation of the interoperability components provided for in this Regulation will have an impact on the way checks are carried out at border crossing points. These impacts will result from a combined application of the existing rules of the Regulation (EU) 2016/399 of the European Parliament and of the Council⁶¹ and the rules on interoperability provided for in this Regulation.

⁶¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders, OJ L 77, 23.3.2016, p.1.

Amendment 33

Proposal for a regulation
Recital 59

Text proposed by the Commission

(59) Should the query of the **multiple-identity detector** (MID) through the **European search portal** (ESP) result in a yellow link or detect a red link, the border guard **on second line** should consult the **common identity repository** or **the Schengen Information System** or both in order to assess the information on the person being checked, to manually verify his/her different identity and to adapt the colour of the link if required.

Amendment 34

Amendment

(55) The implementation of the interoperability components provided for in this Regulation **and the integration of the existing national systems and infrastructure with those components** will have an impact on the way checks are carried out at border crossing points. These impacts will result from a combined application of the existing rules of the Regulation (EU) 2016/399 of the European Parliament and of the Council⁶¹ and the rules on interoperability provided for in this Regulation.

⁶¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (OJ L 77, 23.3.2016, p. 1).

Proposal for a regulation
Recital 61

Text proposed by the Commission

(61) In order to allow competent authorities and the *EU* bodies to adapt to the new requirements on the use of the *European search portal* (ESP), it is necessary to provide for a transitional period. Similarly, in order to allow for the coherent and optimal functioning of the *multiple-identity detector* (MID), transitional measures should be established for the start of its operations.

Amendment 35

Proposal for a regulation
Recital 62

Text proposed by the Commission

(62) *The costs for the development of the interoperability components projected under the current Multiannual Financial Framework are lower than* the remaining amount on the budget earmarked *for Smart Borders* in Regulation (EU) No 515/2014 of the European Parliament and the Council⁶¹. *Accordingly*, this Regulation, pursuant to Article 5(5)(b) of Regulation (EU) No 515/2014, *should reallocate the amount currently attributed* for developing IT systems supporting the management of migration flows across the external borders.

⁶² Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing as part of the

Amendment

(61) In order to allow competent authorities and the *Union* bodies to adapt to the new requirements on the use of the ESP, it is necessary to provide for a transitional period *which should entail, inter alia, training programmes for end users so as to ensure that the new instruments operate to their full potential*. Similarly, in order to allow for the coherent and optimal functioning of the MID, transitional measures should be established for the start of its operations.

Amendment

(62) The remaining amount on the budget earmarked for developing IT systems supporting the management of migration flows across the external borders in Regulation (EU) No 515/2014 of the European Parliament and the Council⁶¹ *should be reallocated to* this Regulation, pursuant to Article 5(5)(b) of Regulation (EU) No 515/2014.

In addition, eu-LISA should endeavour to keep costs to a minimum and to identify and implement the most cost-effective technical solutions.

⁶² Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing as part of the

Internal Security Fund, the Instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

Internal Security Fund, the Instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.5.2014, p. 143).

Justification

Projected costs often do not reflect actual costs. All that can be said with certainty at this stage is that the remaining amount available under Regulation 515/2014 should be reallocated to this Regulation.

Amendment 36

Proposal for a regulation Recital 62 a (new)

Text proposed by the Commission

Amendment

(62a) It would be appropriate that, during the development phase of the interoperability components, the Commission assess the necessity of further harmonisation of national systems and infrastructure of Member States at external borders and makes recommendations. Those recommendations should also include an impact assessment and an assessment of the cost for the Union budget.

Amendment 37

Proposal for a regulation Recital 63

Text proposed by the Commission

Amendment

(63) In order to supplement certain detailed technical aspects of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of the profiles for the users of the European search portal (ESP) **and** the content and format of the ESP replies. It is

(63) In order to supplement certain detailed technical aspects of this Regulation, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission. ***In particular, power should be delegated to the Commission*** in respect of the profiles for the users of the European search portal

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 on Better Law-Making of 13 April 2016⁶³. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member State experts, and their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁶³ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.123.01.0001.01.ENG.

(ESP), the content and format of the ESP replies, *the procedures to determine the cases where identity data can be considered as identical or similar, and the rules on the operation of the CRRS, including specific safeguards for processing of personal data and security rules applicable to the repository*. 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 on Better Law-Making of 13 April 2016⁶³. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council should receive all documents at the same time as Member State experts, and their experts should systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

⁶³ http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.123.01.0001.01.ENG.

Justification

The additional elements on procedures for identity data and in respect of the CRRS constitute the supplementing of certain non-essential elements of this Regulation and, as such, should be the subject of a delegated act.

Amendment 38

Proposal for a regulation

Recital 64

Text proposed by the Commission

(64) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to adopt

Amendment

(64) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to adopt

detailed rules on: automated data quality control mechanisms, procedures and indicators; development of the UMF standard; *procedures for determining cases of similarity of identities; the operation of the central repository for reporting and statistics*; and cooperation procedure in case of security incidents. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁶⁴.

⁶⁴ 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 powers (OJ L 55, 28.2.2011, p. 13).

detailed rules on: automated data quality control mechanisms, procedures and indicators; development of the UMF standard; and cooperation procedure in case of security incidents. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁶³.

⁶⁴ 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 powers (OJ L 55, 28.2.2011, p. 13).

Justification

This amendment is tabled for consistency with the previous amendment.

Amendment 39

Proposal for a regulation Recital 65 a (new)

Text proposed by the Commission

Amendment

(65a) As interoperability components will involve the processing of significant amounts of sensitive personal data, it is important that persons whose data is processed through those components can effectively exercise their rights as data subjects as laid down in Regulation (EU) 2016/679, Directive (EU) 680/2016 and Regulation (EC) No 45/2001. In that regard, in the same way as Member State authorities have been provided with a single portal to carry out searches in Union information systems, the data subjects should be provided with a single

web service through which they can exercise their rights to access to and rectification, erasure and restriction of their personal data. eu-LISA should establish such a web service and host it in its technical site. As eu-LISA is not responsible for the entry of personal data or the verification of identities, any request by a data subject should be transmitted via the web service to either the Member State responsible for the manual verification of different identities or the Member State responsible for the entry of the data into the underlying information system.

Amendment 40

Proposal for a regulation Recital 65 b (new)

Text proposed by the Commission

Amendment

(65b) Article 8(2) of the European Convention on Human Rights states that any interference with the right to respect for private life, must pursue a legitimate aim and must be both necessary and proportionate except in such cases when, in accordance with the law such an action is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Justification

The right to the protection of personal data and the right to respect for private life are enshrined both within EU law (GDPR) and within EU's highest human rights instruments. As this legislation deals with both personal data and privacy of persons, it is essential that both instruments are reflected within the recitals of the law.

Amendment 41

Proposal for a regulation
Recital 65 c (new)

Text proposed by the Commission

Amendment

(65c) One of the core principles of data protection is data minimisation as highlighted in Article 5(1)(c) of Regulation (EU) 2016/679 in accordance with which the processing of personal data must be adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed.

Justification

The right to the protection of personal data and the right to respect for private life are enshrined both within EU law (GDPR) and within EU's highest human rights instruments. As this legislation deals with both personal data and privacy of persons, it is essential that both instruments are reflected within the recitals of the law.

Amendment 42

Proposal for a regulation
Recital 65 d (new)

Text proposed by the Commission

Amendment

(65d) Article 5(1)(b) of Regulation (EU) 2016/679 provides that personal data must be collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes. Furthermore, further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes must respect the principle of purpose limitation.

Justification

The right to the protection of personal data and the right to respect for private life are enshrined both within EU law (GDPR) and within EU's highest human rights instruments. As this legislation deals with both personal data and privacy of persons, it is essential that both

instruments are reflected within the recitals of the law.

Amendment 43

Proposal for a regulation

Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation, together with [Regulation 2018/xx on interoperability police and judicial cooperation, asylum and migration], establishes a framework to ensure the interoperability between the Entry/Exit System (EES), the Visa Information System (VIS), [the European Travel Information and Authorisation System (ETIAS)], Eurodac, the Schengen Information System (SIS), and [the European Criminal Records Information System for third-country nationals (ECRIS-TCN)] ***in order for those systems and data to supplement each other.***

Amendment

1. This Regulation, together with [Regulation 2018/xx on interoperability police and judicial cooperation, asylum and migration], establishes a framework to ensure the interoperability between the Entry/Exit System (EES), the Visa Information System (VIS), [the European Travel Information and Authorisation System (ETIAS)], Eurodac, the Schengen Information System (SIS), and [the European Criminal Records Information System for third-country nationals (ECRIS-TCN)].

Amendment 44

Proposal for a regulation

Article 1 – paragraph 3

Text proposed by the Commission

3. This Regulation also lays down provisions on data quality requirements, on a Universal Message Format (UMF), on a central repository for reporting and statistics (CRRS) and lays down the responsibilities of the Member States and of the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA), with respect to the design and operation of the interoperability components.

Amendment

3. This Regulation also lays down provisions on data quality requirements, on a Universal Message Format (UMF), on a central repository for reporting and statistics (CRRS) and lays down the responsibilities of the Member States and of the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA), with respect to the design, ***development*** and operation of the interoperability components.

Amendment 45

Proposal for a regulation
Article 1 – paragraph 4

Text proposed by the Commission

4. This Regulation also adapts the procedures and conditions for Member State **law enforcement** authorities and for the European Union Agency for Law Enforcement Cooperation (Europol) access to the **Entry/Exit System (EES), the Visa Information System (VIS), [the European Travel Information and Authorisation System (ETIAS),]** and Eurodac for the purposes of the prevention, detection and investigation of terrorist offences or of other serious criminal offences **falling under their competence**.

Amendment 46

Proposal for a regulation
Article 1 – paragraph 4 a (new)

Text proposed by the Commission

Amendment 47

Proposal for a regulation
Article 2 – title

Text proposed by the Commission

Objectives **of interoperability**

Amendment 48

Proposal for a regulation
Article 2 – paragraph 1 – point a

Amendment

4. This Regulation also adapts the procedures and conditions for Member State **designated** authorities and for the European Union Agency for Law Enforcement Cooperation (Europol) access to the EES, VIS, ETIAS and Eurodac for the purposes of the prevention, detection and investigation of terrorist offences or of other serious criminal offences.

Amendment

4a. This Regulation also lays down a framework for verifying identities of third-country nationals and for identifying third-country nationals.

Amendment

Objectives

Text proposed by the Commission

Amendment

(a) to *improve the management of* the external borders;

(a) to *enhance the effectiveness and efficiency of border checks at* the external borders;

Amendment 49

Proposal for a regulation

Article 2 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) to contribute to preventing and *combating* irregular migration;

(b) to contribute to preventing and *tackling* irregular migration;

Amendment 50

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(ea) *to contribute to the prevention, detection and investigation of terrorist offences or of other serious criminal offences;*

Amendment 51

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(eb) *to aid in the identification of unknown persons who are unable to identify themselves or unidentified human remains in cases of natural disasters, accidents or terrorist attacks.*

Amendment 52

Proposal for a regulation
Article 2 – paragraph 2 – introductory part

Text proposed by the Commission

2. *The objectives of ensuring interoperability* shall be achieved by:

Amendment

2. *Those* objectives shall be achieved by:

Amendment 53

Proposal for a regulation
Article 2 – paragraph 2 – point a

Text proposed by the Commission

(a) *ensuring* the correct identification of *persons*;

Amendment

(a) *facilitating* the correct identification of *third-country nationals registered in the Union information systems*;

Amendment 54

Proposal for a regulation
Article 2 – paragraph 2 – point b

Text proposed by the Commission

(b) contributing to *fighting* identity fraud;

Amendment

(b) contributing to *combating* identity fraud;

Amendment 55

Proposal for a regulation
Article 2 – paragraph 2 – point c

Text proposed by the Commission

(c) improving and harmonising *data* quality requirements *of the respective EU* information systems;

Amendment

(c) improving *the data quality* and harmonising *the* quality requirements *for the data stored in the Union* information systems *while respecting the data processing requirements of the legal bases of the individual systems, data protection standards and principles*;

Amendment 56

Proposal for a regulation

Article 2 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) improving judicial cooperation in the area of freedom, security and justice;

Amendment 57

Proposal for a regulation

Article 2 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) facilitating the technical and operational implementation by Member States of existing and *future EU* information systems;

(d) facilitating the technical and operational implementation by Member States of existing and *Union* information systems;

Amendment 58

Proposal for a regulation

Article 2 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) strengthening and simplifying and making more uniform the data security and data protection conditions that govern the respective *EU* information systems;

(e) strengthening and simplifying and making more uniform the data security and data protection conditions that govern the respective *Union* information systems, *without prejudice to the special protection and safeguards afforded to certain categories of data;*

Amendment 59

Proposal for a regulation

Article 2 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) streamlining *the* conditions for law

(f) streamlining *and simplifying the*

enforcement access *to the EES, the VIS, [the ETIAS] and Eurodac*;

conditions for designated authorities' access to the EES, VIS, [ETIAS] and Eurodac, while ensuring the necessary and proportionate conditions for law enforcement access;

Amendment 60

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

2. This Regulation applies to persons in respect of whom personal data may be processed in the *EU* information systems referred to in paragraph 1.

Amendment

2. This Regulation applies to persons in respect of whom personal data may be processed in the *Union* information systems referred to in paragraph 1, *only for the purposes as defined in the underlying legal basis for those information systems.*

Justification

The processing of personal data through interoperability should only serve to achieve the purposes of the underlying systems.

Amendment 61

Proposal for a regulation Article 4 – paragraph 1 – point 3

Text proposed by the Commission

(3) ‘border authority’ means the border guard assigned in accordance with national law to carry out border checks;

Amendment

(3) ‘border authority’ means the border guard assigned in accordance with national law to carry out border checks *as defined in Article 2(11) of Regulation (EU) 2016/399*;

Amendment 62

Proposal for a regulation Article 4 – paragraph 1 – point 18

Text proposed by the Commission

(18) ‘*EU* information systems’ means

Amendment

(18) ‘*Union* information systems’ means

the *large-scale IT systems* managed by eu-LISA;

the *EES, VIS, [ETIAS], Eurodac, SIS and [ECRIS-TCN] operationally* managed by eu-LISA;

Amendment 63

Proposal for a regulation Article 4 – paragraph 1 – point 19

Text proposed by the Commission

(19) ‘Europol data’ means personal data *provided to* Europol for the *purpose* referred to in Article 18(2)(a) of Regulation (EU) 2016/794;

Amendment

(19) ‘Europol data’ means personal data *processed by* Europol for the *purposes* referred to in Article 18(2)(a), *(b) and (c)* of Regulation (EU) 2016/794;

Amendment 64

Proposal for a regulation Article 4 – paragraph 1 – point 21

Text proposed by the Commission

(21) ‘match’ means the existence of a correspondence *established by comparing two or more occurrences of* personal data recorded or being recorded in an information system or database;

Amendment

(21) ‘match’ means the existence of a *same or similar* correspondence *as a result of an automated comparison between* personal data recorded or being recorded in an information system or database;

Amendment 65

Proposal for a regulation Article 4 – paragraph 1 – point 22

Text proposed by the Commission

(22) ‘*hit*’ means the confirmation of *one match or several matches*;

Amendment

deleted

Amendment 66

Proposal for a regulation Article 4 – paragraph 1 – point 24

Text proposed by the Commission

(24) ‘designated authorities’ means the Member State designated authorities **referred to** in Article 29(1) of Regulation (EU) 2017/2226, Article 3(1) of Council Decision 2008/633/JHA, [Article 43 of the ETIAS Regulation] and [Article 6 of the Eurodac Regulation];

Amendment 67

Proposal for a regulation

Article 4 – paragraph 1 – point 25

Text proposed by the Commission

(25) ‘terrorist offence’ means an offence under national law which corresponds **or is equivalent** to one of the offences referred to in Directive (EU) 2017/541;

Amendment 68

Proposal for a regulation

Article 4 – paragraph 1 – point 31

Text proposed by the Commission

(31) ‘SIS’ means the Schengen Information System as referred to [in the Regulation on SIS in the field of border checks, Regulation on SIS in the field of law enforcement and Regulation on SIS in the field of **illegal** return];

Amendment 69

Amendment

(24) ‘designated authorities’ means the Member State designated authorities **as defined** in Article 3(26) of Regulation (EU) 2017/2226, Article 2(1)(d) of Council Decision 2008/633/JHA, [Article 3(21) of the ETIAS Regulation] and **referred to in** [Article 6 of the Eurodac Regulation];

Amendment

(25) ‘terrorist offence’ means an offence under national law which corresponds to one of the offences referred to in **Articles 3 to 14 of** Directive (EU) 2017/541, **or which is equivalent to one of those offences for the Member States which are not bound by that Directive;**

Amendment

(31) ‘SIS’ means the Schengen Information System as referred to [in the Regulation on SIS in the field of border checks, Regulation on SIS in the field of law enforcement and Regulation on SIS in the field of return];

(Horizontal amendment applies throughout the text.)

Proposal for a regulation
Article 4 – paragraph 1 – point 33

Text proposed by the Commission

Amendment

(33) 'ESP' means the European search portal as referred to in Article 6; *deleted*

Amendment 70

Proposal for a regulation
Article 4 – paragraph 1 – point 34

Text proposed by the Commission

Amendment

(34) 'shared BMS' means the shared biometric matching service as referred to in Article 15; *deleted*

Amendment 71

Proposal for a regulation
Article 4 – paragraph 1 – point 35

Text proposed by the Commission

Amendment

(35) 'CIR' means the common identity repository as referred to in Article 17; *deleted*

Amendment 72

Proposal for a regulation
Article 4 – paragraph 1 – point 36

Text proposed by the Commission

Amendment

(36) 'MID' means the multiple-identity detector as referred to in Article 25; *deleted*

Amendment 73

Proposal for a regulation
Article 4 – paragraph 1 – point 37

Text proposed by the Commission

Amendment

(37) *'CRRS' means the central repository for reporting and statistics as referred to in Article 39.*

deleted

Amendment 74

Proposal for a regulation Article 5 – title

Text proposed by the Commission

Amendment

Non-discrimination

Non-discrimination *and fundamental rights*

Amendment 75

Proposal for a regulation Article 5 – paragraph 1

Text proposed by the Commission

Amendment

Processing of personal data for the purposes of this Regulation shall not result in discrimination against persons on any grounds such as sex, *racial or* ethnic origin, religion or belief, disability, age or sexual orientation. It shall fully respect human dignity and integrity. Particular attention shall be paid to children, the elderly and persons with a disability.

Processing of personal data for the purposes of this Regulation shall not result in discrimination against persons on any grounds such as sex, *race, colour, ethnic or social* origin, *genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth,* disability, age or sexual orientation. It shall fully respect human dignity and integrity *and fundamental rights, including the right to respect for one's private life and to the protection of personal data.* Particular attention shall be paid to children, the elderly and persons with a disability *and persons in need of international protection. The best interests of the child shall be a primary consideration.*

Amendment 76

Proposal for a regulation
Article 5 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

One year after the date of entry into force of this Regulation, the Commission shall conduct an ex-post evaluation aimed at assessing the impact of interoperability on the right to non-discrimination.

Justification

Currently, it is not possible to ascertain that the principle of non-discrimination will be fully applied- especially in reference to the Multiple Identity Detector. For example, it is still unclear whether or not the proposal may negatively affect women, in comparison with men, due to the fact that women are more likely to change their last name.

Amendment 77

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. A European search portal (ESP) is established for the purposes of ***ensuring that*** Member State authorities and ***EU bodies have fast, seamless, efficient, systematic and controlled access*** to the ***EU*** information systems, ***the*** Europol data and the Interpol databases ***that they need to perform*** their tasks in accordance with their access rights and ***of supporting*** the objectives of the EES, ***the*** VIS, [***the*** ETIAS], Eurodac, ***the*** SIS, [***the*** ECRIS-TCN system] ***and the Europol data.***

1. A European search portal (ESP) is established for the purposes of ***facilitating the controlled access of*** Member State authorities and ***Union agencies*** to the ***Union*** information systems, ***to*** Europol data and the Interpol databases ***for the performance of*** their tasks ***and*** in accordance with their access rights and the objectives ***and purposes*** of the EES, VIS, [ETIAS], Eurodac, SIS, [ECRIS-TCN] ***as well as in accordance with Regulation (EU) 2016/679, while fully respecting the principles of necessity and proportionality.***

Amendment 78

Proposal for a regulation
Article 6 – paragraph 2 – point b

Text proposed by the Commission

(b) a secure communication channel between the ESP, Member States and ***EU bodies*** that are entitled to use the ESP ***in accordance with Union law***;

Amendment

(b) a secure communication channel between the ESP, Member States and ***Union agencies*** that are entitled to use the ESP;

Amendment 79

Proposal for a regulation

Article 6 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) a central Union backup ESP capable of providing all the functionalities of the principal ESP and a similar level of performance as it in the event of its failure.

Amendment 80

Proposal for a regulation

Article 6 – paragraph 3

Text proposed by the Commission

Amendment

3. eu-LISA shall develop the ESP and ensure its technical management.

3. eu-LISA shall develop the ESP and ensure its technical management. ***It shall not, however, have access to any of the personal data processed through the ESP.***

Amendment 81

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

Amendment

1. The use of the ESP shall be reserved to the Member State authorities and ***EU bodies*** having access to the EES, [***the*** ETIAS], [***the*** VIS], [***the*** SIS], Eurodac and [***the*** ECRIS-TCN system], to the CIR

1. The use of the ESP shall be reserved to the Member State authorities and ***Union agencies*** having access to the EES, [ETIAS], VIS, SIS, Eurodac and [ECRIS-TCN] ***in accordance with the***

and the multiple-identity detector as well as *the* Europol data *and* the Interpol databases in accordance with Union or national law governing such access.

legal instruments governing those Union information systems, to the CIR and the multiple-identity detector *in accordance with this Regulation* as well as Europol data *in accordance with Regulation (EU) 2016/794 and to* the Interpol databases in accordance with Union or national law governing such access.

Those Member State authorities and Union agencies may make use of the ESP and the data provided by it only for the objectives and purposes laid down in the legal instruments governing those Union information systems and in this Regulation.

Amendment 82

Proposal for a regulation Article 7 – paragraph 2

Text proposed by the Commission

2. The authorities referred to in paragraph 1 shall use the ESP to search data related to persons or their travel documents in the central systems of the EES, *the* VIS and [*the* ETIAS] in accordance with their access rights *under* Union and national law. They shall also use the ESP to query the CIR in accordance with their access rights under this Regulation for the purposes referred to in Articles 20, 21 and 22.

Amendment

2. The authorities referred to in paragraph 1 shall use the ESP to search data related to persons or their travel documents in the central systems of the EES, VIS and [ETIAS] in accordance with their access rights *in accordance with the legal instruments governing the Union information systems* and national law. They shall also use the ESP to query the CIR in accordance with their access rights under this Regulation for the purposes referred to in Articles 20, 21 and 22.

Amendment 83

Proposal for a regulation Article 7 – paragraph 4

Text proposed by the Commission

4. *The EU bodies* shall use the ESP to search data related to persons or their travel documents in the Central SIS.

Amendment

4. *Where they are so required under Union law, Union agencies referred to in paragraph 1* shall use the ESP to search

data related to persons or their travel documents in the Central SIS.

Amendment 84

Proposal for a regulation Article 7 – paragraph 5

Text proposed by the Commission

5. The authorities referred to in paragraph 1 may use the ESP to search data related to persons or their travel documents in the Interpol databases in accordance with their access rights under Union and national law.

Amendment

5. ***Where so required under Union or national law***, the authorities referred to in paragraph 1 may use the ESP to search data related to persons or their travel documents in the Interpol databases in accordance with their access rights under Union and national law.

Amendment 85

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

Text proposed by the Commission

Amendment

(aa) ***the purpose of the query;***

Amendment 86

Proposal for a regulation Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) ***the EU*** information systems, ***the*** Europol data ***and*** the Interpol databases that ***shall and*** may be ***consulted*** and that shall provide a reply to the user; ***and***

Amendment

(b) ***the Union*** information systems, Europol data, the Interpol databases ***and the data in those systems*** that may be ***searched*** and that shall provide a reply to the user; ***a user requesting data on the basis of Article 22 shall only get a hit/no-hit notification if the user is authorised to request from the central access point the data of the individual Union information system having provided a hit in accordance with the legal instrument***

governing that system;

Amendment 87

Proposal for a regulation Article 8 – paragraph 2

Text proposed by the Commission

2. The Commission shall adopt delegated acts in accordance with Article 63 to specify the technical details of the profiles referred to in paragraph 1 for the users of the ESP referred to in Article 7(1) in accordance with their access rights.

Amendment

2. The Commission shall adopt delegated acts in accordance with Article 63 to specify the technical details of the profiles referred to in paragraph 1 for the users of the ESP referred to in Article 7(1) in accordance with their access rights ***as laid down in the legal instruments governing Union information systems and in national law where applicable.***

Amendment 88

Proposal for a regulation Article 8 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The profiles referred to in paragraph 1 shall be reviewed regularly, at least once per year, and if necessary updated.

Amendment 89

Proposal for a regulation Article 9 – paragraph 1

Text proposed by the Commission

1. The users of the ESP shall launch a query by introducing data in the ESP in accordance with their user profile and access rights. Where a query has been launched, the ESP shall query simultaneously, with the data introduced by the user of the ESP, the EES, ***[the***

Amendment

1. The users of the ESP shall launch a query by introducing data in the ESP in accordance with their ***ESP*** user profile ***created in accordance with Article 8*** and access rights. Where a query has been launched, the ESP shall query simultaneously, with the data introduced

ETIAS], *the* VIS, *the* SIS, Eurodac, [*the* ECRIS-TCN *system*] and the CIR as well as the Europol data and the Interpol databases.

by the user of the ESP, the EES, [ETIAS], VIS, SIS, Eurodac, [ECRIS-TCN] and the CIR as well as the Europol data and the Interpol databases.

Amendment 90

Proposal for a regulation Article 9 – paragraph 4

Text proposed by the Commission

4. The EES, [*the* ETIAS], *the* VIS, *the* SIS, Eurodac, [*the* ECRIS-TCN *system*], the CIR and the multiple-identity detector, as well as *the* Europol data and the Interpol databases, shall provide the data that they contain resulting from the query of the ESP.

Amendment

4. The EES, [ETIAS], VIS, SIS, Eurodac, [ECRIS-TCN], the CIR and the multiple-identity detector, as well as Europol data and the Interpol databases, shall provide the data that they contain resulting from the query of the ESP. ***The ESP shall provide replies to the user as soon as data is available from one of the systems. The replies to the user from the ESP shall be unique and shall contain all the data to which the user has access in accordance with the legal instruments governing the Union information systems and under national law. Without prejudice to Article 20, the reply provided by the ESP shall indicate to which Union information system or database the data belongs. The ESP shall provide no information regarding data in information systems to which the user has no access under Union law.***

Amendment 91

Proposal for a regulation Article 9 – paragraph 5

Text proposed by the Commission

5. When querying the Interpol databases, the design of the ESP shall ensure that *the data used by the user* of the ESP *to launch a query* is not *shared with the owners of Interpol data*.

Amendment

5. When querying the Interpol databases, the design of the ESP shall ensure that ***no information is revealed to the owner of the Interpol alert. The design of the ESP shall also ensure that Interpol***

TDAWN is not queried in a systematic manner but in accordance with applicable Union and national law.

Amendment 92

Proposal for a regulation Article 9 – paragraph 6

Text proposed by the Commission

Amendment

6. *The reply to the user of the ESP shall be unique and shall contain all the data to which the user has access under Union law. Where necessary, the reply provided by the ESP shall indicate to which information system or database the data belongs.*

deleted

Amendment 93

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

Text proposed by the Commission

Amendment

1. Without prejudice to [Article 46 of the EES Regulation], Article 34 of Regulation (EC) No 767/2008, [Article 59 of the ETIAS proposal] and Articles 12 and 18 of the Regulation on SIS in the field of border checks, eu-LISA shall keep logs of all data processing operations within the ESP. Those logs shall include, *in particular*, the following:

1. Without prejudice to [Article 46 of the EES Regulation], Article 34 of Regulation (EC) No 767/2008, [Article 59 of the ETIAS proposal] and Articles 12 and 18 of the Regulation on SIS in the field of border checks, eu-LISA shall keep logs of all data processing operations within the ESP. Those logs shall include the following:

Amendment 94

Proposal for a regulation Article 10 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) the Member State authority *and the individual user of the ESP, including the*

(a) the Member State authority *or the Union agency launching the query;*

ESP profile used as referred to in Article 8;

Amendment 95

Proposal for a regulation Article 10 – paragraph 1 – point c

Text proposed by the Commission

(c) the *EU* information systems and the Interpol databases queried;

Amendment

(c) the *Union* information systems and the *Europol and* Interpol databases queried;

Amendment 96

Proposal for a regulation Article 10 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) *the ESP profile used;*

Amendment 97

Proposal for a regulation Article 10 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) *in accordance with national rules or when applicable, Regulation (EU) 45/2001, the identifying mark of the person who carried out the query..*

deleted

Amendment 98

Proposal for a regulation Article 10 – paragraph 1 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

In addition, Member States and Union agencies shall keep logs of the unique

user identity of the official performing the query.

Amendment 99

Proposal for a regulation Article 10 – paragraph 2

Text proposed by the Commission

2. The logs may be used only for data protection monitoring, including checking the admissibility of a query and the lawfulness of data processing, and for ensuring **data** security pursuant to Article 42. Those logs shall be protected by appropriate measures against unauthorised access and erased **one year** after their creation, unless they are required for monitoring procedures that have already begun.

Amendment

2. The logs may be used only for data protection monitoring, including checking the admissibility of a query and the lawfulness of data processing, **for self-monitoring**, and for ensuring **the proper functioning and data integrity and security** pursuant to Article 42. **To that end, access to those logs shall be granted as appropriate to the data controllers identified pursuant to Article 40, to national supervisory authorities referred to in Article 51 of Regulation (EU) 2016/679 and Article 41 of Directive (EU) 2016/680, and to the European Data Protection Supervisor.** Those logs shall be protected by appropriate measures against unauthorised access and erased **two years** after their creation, unless they are required for monitoring procedures that have already begun.

Amendment 100

Proposal for a regulation Article 11 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Where it is technically impossible to use the ESP due to its failure, eu-LISA shall switch to the back-up ESP.

Amendment 101

Proposal for a regulation
Article 11 – paragraph 1

Text proposed by the Commission

1. Where it *is* technically impossible to use the ESP to query one or several *EU* information systems *referred to in Article 9(1)* or the CIR, because of a failure of the ESP, the users of the ESP shall be notified by eu-LISA.

Amendment

1. Where it *remains* technically impossible to use the ESP to query one or several *Union* information systems or the CIR, because of a failure of the ESP *or a failure in the Union information systems being queried*, the users of the ESP shall be *immediately* notified by eu-LISA.

Amendment 102

Proposal for a regulation
Article 11 – paragraph 2

Text proposed by the Commission

2. Where it is technically impossible to use the ESP to query one or several *EU* information systems *referred to in Article 9(1)* or the CIR, because of a failure of the national infrastructure in a Member State, that Member State's competent authority shall notify eu-LISA and the Commission.

Amendment

2. Where it is technically impossible to use the ESP to query one or several *Union* information systems or the CIR, because of a failure of the national infrastructure in a Member State, that Member State's competent authority shall *immediately inform all its users and* notify eu-LISA and the Commission.

Amendment 103

Proposal for a regulation
Article 11 – paragraph 3

Text proposed by the Commission

3. In both scenarios, and until the technical failure is addressed, the obligation referred to in Article 7(2) and (4) shall not apply and Member States *may* access the information systems *referred to in Article 9(1)* or the CIR directly using their respective national uniform interfaces or national communication infrastructures.

Amendment

3. In both scenarios *referred to in paragraphs 1 and 2 of this Article*, and until the technical failure is addressed, the obligation referred to in Article 7(2) and (4) shall not apply and Member States *shall* access the *Union* information systems or the CIR, *where they are required to do so according to Union or national law*, directly using their respective national uniform interfaces or

national communication infrastructures.

Amendment 104

Proposal for a regulation

Article 11 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Where it is technically impossible to use the ESP to query one or several Union information systems or the CIR because of a failure of the infrastructure of a Union agency that agency shall notify eu-LISA and the Commission.

Amendment 105

Proposal for a regulation

Article 12 – paragraph 1

Text proposed by the Commission

Amendment

1. A shared biometric matching service (shared BMS) storing biometric templates and enabling querying with biometric data across *several EU* information systems is established for the purposes of supporting the CIR and the multiple-identity detector and the objectives of the EES, *the* VIS, Eurodac, *the* SIS and [*the* ECRIS-TCN system].

1. A shared biometric matching service (shared BMS) storing biometric templates and enabling querying with biometric data across *Union* information systems ***containing biometric data*** is established for the purposes of supporting the CIR and the multiple-identity detector and the objectives of the EES, VIS, Eurodac, SIS and [ECRIS-TCN]. ***In line with the principles of necessity and proportionality, the shared BMS shall not store DNA data or palm print data.***

Amendment 106

Proposal for a regulation

Article 12 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) a central infrastructure, ***including a search engine and the storage of the data***

(a) a central infrastructure, ***that shall replace the Automated Fingerprint***

referred to in Article 13;

Identification Systems of respectively the EES, VIS, SIS, Eurodac and [ECRIS-TCN] to the extent that it allows to search with biometric data as defined in Article 4(12);

Amendment 107

Proposal for a regulation Article 12 – paragraph 2 – point b

Text proposed by the Commission

(b) a secure communication infrastructure between the shared BMS, Central-SIS *and* the CIR.

Amendment

(b) a secure communication infrastructure between the shared BMS, Central-SIS, the CIR *and the Union information systems*.

Amendment 108

Proposal for a regulation Article 12 – paragraph 3

Text proposed by the Commission

3. eu-LISA shall develop the shared BMS and ensure its technical management.

Amendment

3. eu-LISA shall develop the shared BMS and ensure its technical management. *It shall not, however, have access to any of the personal data processed through the shared BMS.*

Amendment 109

Proposal for a regulation Article 13 – title

Text proposed by the Commission

Data stored in the shared biometric matching service

Amendment

Storing biometric templates in the shared biometric matching service

Amendment 110

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

Text proposed by the Commission

1. The shared BMS shall store the biometric templates that it shall obtain from the following biometric data:

Amendment

1. The shared BMS shall store the biometric templates – ***logically separated – according to the information system from which the data originates***, that it shall obtain from the following biometric data:

Amendment 111

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

Text proposed by the Commission

(d) the data referred to in Article 20(3)(w) and (x) of the Regulation on SIS in the field of law enforcement;

Amendment

(d) the data referred to in Article 20(3)(w) and (y) of the Regulation on SIS in the field of law enforcement;

Amendment 112

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

Text proposed by the Commission

(f) [the data referred to in Article 13(a) of the Eurodac Regulation;]

Amendment

(f) [the data referred to in Article 12(a) and (b), Article 13(2),(a) and (b) and Article 14(2),(a) and (b) of the Eurodac Regulation;]

Amendment 113

Proposal for a regulation
Article 13 – paragraph 4

Text proposed by the Commission

4. The storage of the data referred to in paragraph 1 shall meet the quality standards referred to in Article 37(2).

Amendment

4. The storage of the data referred to in paragraph 1 ***of this Article*** shall meet the quality standards referred to in Article 37.

Amendment 114

Proposal for a regulation Article 15 – paragraph 1

Text proposed by the Commission

The data referred to in Article 13 shall be stored in the shared BMS for as long as the corresponding biometric data is stored in the CIR *or the SIS*.

Amendment

The data referred to in Article 13 shall be stored in the shared BMS for as long as the corresponding biometric data is stored in the CIR *in accordance with Articles 18 and 19 or in SIS, after which it shall be automatically deleted*.

Amendment 115

Proposal for a regulation Article 16 – paragraph 1 – introductory part

Text proposed by the Commission

1. Without prejudice to [Article 46 of the EES Regulation], Article 34 of Regulation (EC) No 767/2008 and [Article 12 and 18 of the Regulation on SIS in the field of *law enforcement*], eu-LISA shall keep logs of all data processing operations within the shared BMS. Those logs shall include, *in particular*, the following:

Amendment

1. Without prejudice to [Article 46 of the EES Regulation], Article 34 of Regulation (EC) No 767/2008 and [Article 12 and 18 of the Regulation on SIS in the field of *border checks*], eu-LISA shall keep logs of all data processing operations within the shared BMS. Those logs shall include the following:

Amendment 116

Proposal for a regulation Article 16 – paragraph 1 – point -a (new)

Text proposed by the Commission

Amendment

(-a) the Member State authority or the Union agency launching the query;

Amendment 117

Proposal for a regulation Article 16 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) the results of the query and date and time of the result;

(f) the results of the query and ***the*** date and time of the result ***and the Union information system from which the data was received;***

Amendment 118

Proposal for a regulation

Article 16 – paragraph 1 – point g

Text proposed by the Commission

Amendment

(g) *in accordance with national rules or, when applicable, Regulation (EU) 45/2001, the identifying mark of the person who carried out the query.*

deleted

Amendment 119

Proposal for a regulation

Article 16 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) the specific purpose of the query and, where applicable, the case reference, pursuant to Article 14.

Amendment 120

Proposal for a regulation

Article 16 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In addition, Member States and Union agencies shall keep logs of the unique user identity of the official performing the query.

Amendment 121

Proposal for a regulation Article 16 – paragraph 2

Text proposed by the Commission

2. The logs may be used only for data protection monitoring, including checking the admissibility of a query and the lawfulness of data processing, and for ensuring data security pursuant to Article 42. Those logs shall be protected by appropriate measures against unauthorised access and erased **one year** after their creation, unless they are required for monitoring procedures that have already begun. The logs referred to in paragraph 1(a) shall be erased once the data is erased.

Amendment

2. The logs may be used only for data protection monitoring **and monitoring the impact on fundamental rights**, including checking the admissibility of a query and the lawfulness of data processing, and for ensuring data security pursuant to Article 42. **To that end, access to those logs shall be granted as appropriate to the data controllers identified pursuant to Article 40, to the national supervisory authorities referred to in Article 51 of Regulation (EU) 2016/679 and Article 41 of Directive (EU) 2016/680, and to the European Data Protection Supervisor.** Those logs shall be protected by appropriate measures against unauthorised access and erased **two years** after their creation, unless they are required for monitoring procedures that have already begun. The logs referred to in paragraph 1(a) shall be erased once the data is erased.

Amendment 122

Proposal for a regulation Article 17 – paragraph 1

Text proposed by the Commission

1. A common identity repository (CIR), creating an individual file for each person that is recorded in the EES, **the** VIS, [**the** ETIAS], Eurodac or [**the** ECRIS-TCN **system**] containing the data referred to in Article 18, is established for the purpose of facilitating and assisting the correct identification of persons registered in the EES, **the** VIS, [**the** ETIAS], **the** Eurodac and [**the** ECRIS-TCN **system**], of supporting the functioning of the multiple-identity detector and of facilitating and

Amendment

1. A common identity repository (CIR), creating an individual file for each person that is recorded in the EES, VIS, [ETIAS], Eurodac or [ECRIS-TCN] containing the data referred to in Article 18, is established for the purpose of facilitating and assisting the correct identification of persons registered in the EES, VIS, [ETIAS], Eurodac and [ECRIS-TCN], of supporting the functioning of the multiple-identity detector and of facilitating and streamlining access by

streamlining access by **law enforcement** authorities to non-law enforcement information systems at **EU** level, where necessary for the prevention, investigation, detection or prosecution of serious crime.

designated authorities to non-law enforcement information systems at **Union** level, where necessary for the prevention, investigation, detection or prosecution of serious crime, **while fully respecting the principles of necessity and proportionality**.

Amendment 123

Proposal for a regulation Article 17 – paragraph 2 – point b

Text proposed by the Commission

(b) a secure communication channel between the CIR, Member States and **EU bodies** that are entitled to use the **European search portal (ESP)** in accordance with Union law;

Amendment

(b) a secure communication channel between the CIR, Member States and **Union agencies** that are entitled to use the **CIR** in accordance with Union **and national** law

Amendment 124

Proposal for a regulation Article 17 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

(ca) a central Union backup CIR capable of providing all the functionalities of the principal CIR and a similar level of performance as it in the event of its failure. The CIR and the backup CIR may operate simultaneously. The CIR and the backup CIR shall be located in technical sites of eu-LISA.

Amendment 125

Proposal for a regulation Article 17 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Where it is technically impossible

to query the CIR for the purpose of identifying a person pursuant Article 20, for the detection of multiple identities pursuant Article 21 or for law enforcement purposes pursuant Article 22, because of a failure of the CIR, the users of the CIR shall be immediately notified by eu-LISA.

Amendment 126

Proposal for a regulation Article 18 – paragraph 1 – point d

Text proposed by the Commission

(d) – (not applicable)

Amendment

deleted

(Horizontal amendment applies throughout the text.)

Amendment 127

Proposal for a regulation Article 18 – paragraph 2

Text proposed by the Commission

2. For each set of data referred to in paragraph 1, the CIR shall include a reference to the information systems to which the data belongs.

Amendment

2. For each set of data referred to in paragraph 1, the CIR shall include a reference to the information systems to which the data belongs. ***The officer accessing the CIR shall see only the data contained in the individual file stored in the CIR which originate from those information systems the officer is authorised to access.***

Amendment 128

Proposal for a regulation Article 19 – paragraph 1

Text proposed by the Commission

1. Where data is added, amended or

Amendment

1. ***Without duplicating the data from***

deleted in the EES, *the* VIS and [*the* ETIAS], the data referred to in Article 18 stored in the individual file of the CIR shall be added, amended or deleted accordingly in an automated manner.

the respective Union information systems, where data is added, amended or deleted in the EES, VIS and [ETIAS], the data referred to in Article 18 stored in the individual file of the CIR shall be *simultaneously* added, amended or deleted accordingly in an automated manner.

Amendment 129

Proposal for a regulation

Article 20 – paragraph 1 – subparagraph -1 (new)

Text proposed by the Commission

Amendment

-1 *Where a Member State police authority is unable to identify a person due to the lack of a travel document or another credible document proving that person's identity, or where there are doubts about the identity data provided by that person or as to the authenticity of the travel document or the identity of its holder or where the person is unable or refuses to cooperate, the authority shall be able to query the CIR in accordance with paragraphs 1 and 2. Such query shall not be allowed against minors under the age of 12 years old, unless in the best interest of the child.*

Amendment 130

Proposal for a regulation

Article 20 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Where a Member State police authority has been so empowered by national legislative measures as referred to in paragraph 2, it may, solely for the purpose of identifying a person, query the CIR with the biometric data of that person taken during *an* identity check.

Where *the situation referred to in paragraph -1 arises during an identity check following rules and procedures provided for in national law and* a Member State police authority has been so empowered by national legislative measures as referred to in paragraph 2, it may, *in the presence of that person, and*

solely for the purpose of identifying *that* person, query the CIR with the biometric data of that person taken during *the* identity check.

Amendment 131

Proposal for a regulation

Article 20 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Where the query indicates that data on that person is stored in the CIR, the Member States authority shall have access to consult the data referred to in Article 18(1).

Amendment

Where the query indicates that data on that person is stored in the CIR, the Member States *police* authority shall have access to consult the data referred to in Article 18(1). ***The consultation shall not reveal to which Union information system the data belongs.***

Amendment 132

Proposal for a regulation

Article 20 – paragraph 1 – subparagraph 3

Text proposed by the Commission

Where the biometric data of the person cannot be used or where the query with that data fails, the query shall be carried out with identity data of the person in combination with travel document data, or with the identity data provided by that person.

Amendment

deleted

Amendment 133

Proposal for a regulation

Article 20 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Where a Member State police authority has been so empowered by national legislative measures as referred

to in paragraph 2, it may, in the event of a disaster or an accident and solely for the purpose of identifying unknown persons who are not able to identify themselves or unidentified human remains, query the CIR with the biometric data of those persons.

Amendment 134

Proposal for a regulation Article 20 – paragraph 2

Text proposed by the Commission

2. Member States wishing to avail themselves of the possibility provided for in this Article shall adopt national legislative measures. Such legislative measures shall specify the precise purposes of *identity checks* within the purposes referred to in Article 2(1)(b) and (c). *They shall designate the police authorities competent* and lay down the procedures, conditions and criteria *of such checks*.

Amendment

2. Member States wishing to avail themselves of the possibility provided for in this Article shall adopt national legislative measures. Such legislative measures shall specify the precise purposes of *the identification* within the purposes referred to in Article 2(2)(b) and lay down the procedures, conditions and criteria *for such identification*. *They shall designate the competent police authorities. Member States making use of this possibility shall transmit the text of their national legislative measures to the Commission. Access to the CIR to establish the identity of a third country national for purposes of ensuring a high level of security shall only be allowed where access for the same purposes to similar national databases exist and under equivalent conditions.*

Amendment 135

Proposal for a regulation Article 22 – paragraph 1

Text proposed by the Commission

1. *For the purposes of preventing, detecting and investigating* terrorist offences or other serious criminal offences *in a specific case and* in order to obtain

Amendment

1. *Where there are reasonable grounds to believe that consultation of Union information systems will substantially contribute to the prevention,*

information on whether data on a specific person is present in the EES, *the* VIS and [*the* ETIAS] *or the Member State designated authorities and Europol may consult the CIR.*

detection or investigation of terrorist or other serious criminal offences, *in particular where there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls under a category of third-country nationals whose data are stored in [the EES], VIS, [ETIAS], and where a prior search in national databases has been carried out and a query of the automated fingerprint identification system of the other Member States under Decision 2008/615/JHA has been launched, the Member States designated authorities and Europol may use the CIR* in order to obtain information on whether data on a specific person is present in the EES, VIS and [ETIAS].

Amendment 136

Proposal for a regulation

Article 22 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The reply indicating that data on that person is present in any of the Union information systems referred to in paragraph 1 may be used only for the purposes of submitting an access request subject to the conditions and procedures laid down in the respective legislative instruments governing such access.

Amendment 137

Proposal for a regulation

Article 22 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The Member State designated authorities and Europol getting a hit shall refer to the national supervisory authorities that shall check whether the conditions of accessing the CIR were

complied with. In case the ex post independent verification determines that the consultation of the CIR was not justified, the law enforcement authority shall erase all data originating from the CIR.

Amendment 138

Proposal for a regulation Article 23 – paragraph 1

Text proposed by the Commission

1. The data referred to in Article 18(1) and (2) shall be deleted from the CIR in accordance with the data retention provisions of [the EES Regulation], the VIS Regulation and [the ETIAS Regulation] respectively.

Amendment

1. The data referred to in Article 18(1) and (2) shall be **automatically** deleted from the CIR in accordance with the data retention provisions of [the EES Regulation], the VIS Regulation and [the ETIAS Regulation] respectively.

Amendment 139

Proposal for a regulation Article 23 – paragraph 2

Text proposed by the Commission

2. The individual file shall be stored in the CIR for as long as the corresponding data is stored in at least one of the information systems whose data is contained in the CIR. The creation of a link shall not affect the retention period of each item of the linked data.

Amendment

2. The individual file shall be stored in the CIR for as long as the corresponding data is stored in at least one of the **Union** information systems whose data is contained in the CIR. The creation of a link shall not affect the retention period of each item of the linked data. ***Once all data to which a link is created is deleted the link shall also be deleted automatically.***

Amendment 140

Proposal for a regulation Article 24 – paragraph 2 – introductory part

Text proposed by the Commission

2. Concerning any access to the CIR pursuant to Article 20, eu-LISA shall keep logs of all data processing operations within the CIR. Those logs shall include, *in particular*, the following:

Amendment

2. Concerning any access to the CIR pursuant to Article 20, eu-LISA shall keep logs of all data processing operations within the CIR. Those logs shall include the following:

Amendment 141

Proposal for a regulation

Article 24 – paragraph 2 – point -a (new)

Text proposed by the Commission

Amendment

(-a) *the Member State authority launching the query;*

Amendment 142

Proposal for a regulation

Article 24 – paragraph 2 – point d

Text proposed by the Commission

Amendment

(d) the results of the query;

(d) the results of the query ***and the Union information system from which the data was received.***

Amendment 143

Proposal for a regulation

Article 24 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) *in accordance with national rules or with Regulation (EU) 2016/794 or, when applicable, Regulation (EU) 45/2001, the identifying mark of the person who carried out the query.*

deleted

Amendment 144

Proposal for a regulation

Article 24 – paragraph 2 – subparagraph 1 (new)

Text proposed by the Commission

Amendment

In addition, Member States shall keep logs of the unique user identity of the official performing the query.

Amendment 145

Proposal for a regulation

Article 24 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. Concerning any access to the CIR pursuant to Article 21, eu-LISA shall keep logs of all data processing operations within the CIR. Those logs shall include, ***in particular***, the following:

3. Concerning any access to the CIR pursuant to Article 21, eu-LISA shall keep logs of all data processing operations within the CIR. Those logs shall include the following:

Amendment 146

Proposal for a regulation

Article 24 – paragraph 3 – point -a (new)

Text proposed by the Commission

Amendment

(-a) the Member State authority launching the query;

Amendment 147

Proposal for a regulation

Article 24 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) ***where relevant***, the data used to launch the query;

(c) the data used to launch the query;

Amendment 148

Proposal for a regulation

Article 24 – paragraph 3 – point d

Text proposed by the Commission

(d) *where relevant*, the results of the query;

Amendment

(d) the results of the query *and the Union information system from which the data was received*.

Amendment 149

Proposal for a regulation

Article 24 – paragraph 3 – point e

Text proposed by the Commission

(e) *in accordance with national rules or with Regulation (EU) 2016/794 or, when applicable, Regulation (EU) 45/2001, the identifying mark of the person who carried out the query.*

Amendment

deleted

Amendment 150

Proposal for a regulation

Article 24 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In addition, Member States shall keep logs of the unique user identity of the official performing the query.

Amendment 151

Proposal for a regulation

Article 24 – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

Concerning any access to the CIR pursuant to Article 22, eu-LISA shall keep logs of all data processing operations within the

Concerning any access to the CIR pursuant to Article 22, eu-LISA shall keep logs of all data processing operations within the

CIR. Those logs shall include, *in particular*, the following:

CIR. Those logs shall include the following:

Amendment 152

Proposal for a regulation

Article 24 – paragraph 4 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) the national *file reference*;

(a) *the purpose of access and the reference to the national investigation or case*;

Amendment 153

Proposal for a regulation

Article 24 – paragraph 4 – subparagraph 1 – point c

Text proposed by the Commission

Amendment

(c) the type of data used to launch the query;

(c) *the data used to launch the query or, in the case of a query launched with biometric data*, the type of data used to launch the query;

Amendment 154

Proposal for a regulation

Article 24 – paragraph 4 – subparagraph 1 – point d

Text proposed by the Commission

Amendment

(d) the results of the query;

(d) the results of the query *and the Union information system from which the data was received*.

Amendment 155

Proposal for a regulation

Article 24 – paragraph 4 – subparagraph 1 – point f

Text proposed by the Commission

Amendment

(f) in accordance with national rules or with Regulation (EU) 2016/794 or, when applicable, Regulation (EU) 45/2001, the identifying mark of the official who carried out the query and of the official who ordered the query.

deleted

Amendment 156

Proposal for a regulation

Article 24 – paragraph 4 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In addition, Member States shall keep logs of the unique user identity of the official performing the query.

Amendment 157

Proposal for a regulation

Article 24 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Amendment

The logs of such access shall be regularly verified by the competent supervisory authority established in accordance with Article 51 of Regulation (EU) 2016/679 or in accordance with Article 41 of Directive 2016/680, at intervals not exceeding six months, to verify whether the procedures and conditions set out in Article 22(1) to (3) are fulfilled.

The logs of such access shall be regularly verified by the competent supervisory authority established in accordance with Article 51 of Regulation (EU) 2016/679 or in accordance with Article 41 of Directive 2016/680, at intervals not exceeding six months, to verify whether the procedures and conditions set out in Article 22(1) to (3) are fulfilled. ***eu-LISA shall make available to the supervisory authorities a practical tool to facilitate and automate as far as possible the verification of the logs.***

Amendment 158

Proposal for a regulation

Article 24 – paragraph 5 a (new)

5a. *Union agencies shall keep logs of queries of the staff duly authorised to use the CIR pursuant to Article 22.*

Amendment 159

Proposal for a regulation Article 24 – paragraph 6

Text proposed by the Commission

Amendment

6. The logs referred to in paragraphs 1 **and 5** may be used only for data protection monitoring, including checking the admissibility of a request and the lawfulness of data processing, and for ensuring **data** security pursuant to Article 42. They shall be protected by appropriate measures against unauthorised access and erased **one year** after their creation, unless they are required for monitoring procedures that have already begun.

6. The logs referred to in paragraphs 1, **5 and 5a** may be used only for data protection monitoring, including checking the admissibility of a request and the lawfulness of data processing, **for self-monitoring**, and for ensuring **the proper functioning and the data integrity and security** pursuant to Article 42. They shall be protected by appropriate measures against unauthorised access and erased **two years** after their creation, unless they are required for monitoring procedures that have already begun.

Amendment 160

Proposal for a regulation Article 24 – paragraph 7

Text proposed by the Commission

Amendment

7. eu-LISA shall keep the logs related to the history of the data stored in individual file, for purposes defined in paragraph 6. The logs related to the history of the data stored shall be erased once the data is erased.

7. eu-LISA shall keep the logs related to the history of the data stored in individual file, for purposes defined in paragraph 6. The logs related to the history of the data stored shall be erased **automatically** once the data is erased.

Amendment 161

Proposal for a regulation
Article 24 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7 a. *The competent national authorities in charge of checking whether or not access is lawful, monitoring the lawfulness of data processing, self-monitoring and ensuring the proper functioning, data integrity and security, shall have access, within the limits of their competence and at their request, to the logs for the purpose of fulfilling their duties.*

Amendment 162

Proposal for a regulation
Article 24 – paragraph 7 b (new)

Text proposed by the Commission

Amendment

7b. *For the purposes of self-monitoring and ensuring the proper functioning of the CIR, data integrity and security, the eu-LISA shall have access, within the limits of its competence, to the logs.*

Amendment 163

Proposal for a regulation
Article 24 – paragraph 7 c (new)

Text proposed by the Commission

Amendment

7c. *The European Data Protection Supervisor shall have access, within the limits of its competence and upon request, to those logs for the purpose of fulfilling its tasks.*

Amendment 164

Proposal for a regulation
Article 25 – paragraph 1

Text proposed by the Commission

1. A multiple-identity detector (MID) creating and storing links between data in the *EU* information systems included in the *common identity repository* (CIR) and *the* SIS and as a consequence detecting multiple identities, with the dual purpose of facilitating identity checks and combating identity fraud, is established for the purpose of supporting the functioning of the CIR and the objectives of the EES, *the* VIS, *the* ETIAS], Eurodac, *the* SIS and [*the* ECRIS-TCN system].

Amendment

1. A multiple-identity detector (MID) creating and storing links between data in the *Union* information systems included in the CIR and SIS and as a consequence detecting multiple identities, with the dual purpose of facilitating identity checks and combating identity fraud, is established for the purpose of supporting the functioning of the CIR and the objectives of the EES, VIS, ETIAS], Eurodac, SIS and [ECRIS-TCN], ***while fully respecting the principles of necessity and proportionality.***

Amendment 165

Proposal for a regulation
Article 25 – paragraph 3

Text proposed by the Commission

3. eu-LISA shall develop the MID and ensure its technical management.

Amendment

3. eu-LISA shall develop the MID and ensure its technical management. ***It shall not have access to any of the personal data processed through the MID.***

Amendment 166

Proposal for a regulation
Article 25 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. eu-LISA and the competent authorities of the Member States shall use appropriate procedures for the profiling, implement technical and organizational measures appropriate to ensure, in particular, that factors which result in inaccuracies in personal data are corrected and the risk of errors is minimized, secure personal data in a

manner that takes account of the potential risks involved for the interests and rights of the data subject and that prevents discriminatory effects on natural persons on the basis of social, racial or ethnic origin, political opinion, religion or beliefs, trade union membership, genetic or health status or sexual orientation, or that result in measures having such effect.

Amendment 167

Proposal for a regulation

Article 26 – paragraph 1 – point e

Text proposed by the Commission

(e) the SIRENE Bureaux of the Member State creating a [SIS alert in accordance with the Regulation on SIS in the field of border checks];

Amendment

(e) the SIRENE Bureaux of the Member State creating **or updating** a [SIS alert in accordance with the Regulation on SIS in the field of border checks];

Amendment 168

Proposal for a regulation

Article 27 – paragraph 2

Text proposed by the Commission

2. Where the data contained within an information system as referred to in paragraph 1 contains biometric data, the common identity repository (CIR) and the Central-SIS shall use the shared biometric matching service (shared BMS) in order to perform the multiple-identity detection. The shared BMS shall compare the biometric templates obtained from any new biometric data to the biometric templates already contained in the shared BMS in order to verify whether or not data belonging to the same **third-country national** is already stored in the CIR or in the Central SIS.

Amendment

2. Where the data contained within an information system as referred to in paragraph 1 contains biometric data, the common identity repository (CIR) and the Central SIS shall use the shared biometric matching service (shared BMS) in order to perform the multiple-identity detection. The shared BMS shall compare the biometric templates obtained from any new biometric data to the biometric templates already contained in the shared BMS in order to verify whether or not data belonging to the same **person** is already stored in the CIR or in the Central SIS.

Amendment 169

Proposal for a regulation Article 27 – paragraph 4

Text proposed by the Commission

4. The multiple-identity detection shall only be launched in order to compare data available in one information system with data available in other information systems.

Amendment

4. The multiple-identity detection shall only be launched in order to compare data available in one **Union** information system with data available in other **Union** information systems.

Amendment 170

Proposal for a regulation Article 28 – paragraph 5

Text proposed by the Commission

5. The Commission shall lay down the procedures to determine the cases where identity data can be considered as identical or similar in **implementing** acts. Those **implementing acts** shall be adopted in accordance with **the examination procedure referred to in Article 64(2)**.

Amendment

5. The Commission shall lay down the procedures to determine the cases where identity data can be considered as identical or similar in **delegated** acts. Those **delegated act** shall be adopted in accordance with Article 63. **Such acts shall be designed in a manner that ensures the protection of persons with multiple lawful identities against discrimination.**

Justification

In this regard, women are more likely to be discriminated against due to the fact that they are more likely to have different legal identities (due to surname change following marriage).

Amendment 171

Proposal for a regulation Article 28 – paragraph 6 – subparagraph 2

Text proposed by the Commission

The Commission shall lay down the technical rules for linking data from different information systems by implementing acts. Those implementing

Amendment

The Commission shall, **in cooperation with eu-LISA**, lay down the technical rules for linking data from different **Union** information systems by implementing acts.

acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).

Amendment 172

Proposal for a regulation

Article 29 – paragraph 1 – subparagraph 1 – point e

Text proposed by the Commission

(e) the SIRENE Bureaux of the Member State for hits that occurred when creating a SIS alert in accordance with the [Regulations on SIS in the field of border checks];

Amendment

(e) the SIRENE Bureaux of the Member State for hits that occurred when creating **or updating** a SIS alert in accordance with the [Regulations on SIS in the field of border checks];

Amendment 173

Proposal for a regulation

Article 29 – paragraph 2 – point f

Text proposed by the Commission

(f) ***in an alert on unknown wanted persons for identification according to national law and search with biometric data as referred to in Article 40 of [the Regulation on SIS in the field of law enforcement].***

Amendment

deleted

Amendment 174

Proposal for a regulation

Article 29 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where the SIRENE Bureau is responsible for manually verifying different identities but has not been involved in the addition of the new identity data which has given rise to a yellow link, it shall be informed immediately by the authority which added

the new identity data. The SIRENE Bureau shall carry out the manual verification of the different identities as soon as possible.

Amendment 175

Proposal for a regulation Article 29 – paragraph 3

Text proposed by the Commission

3. Without prejudice to paragraph 4, the authority responsible for verification of different identities shall have access to the related data contained in the relevant identity confirmation file and to the identity data linked in the common identity repository and, where relevant, in the SIS, and shall assess the different identities and shall update the link in accordance with Articles 31, 32 and 33 and add it to the identity confirmation file without delay.

Amendment

3. Without prejudice to paragraph 4, the authority responsible for verification of different identities shall have access to the related data contained in the relevant identity confirmation file and to the identity data linked in the common identity repository and, where relevant, in the SIS, and shall assess the different identities and shall update the link in accordance with Articles 31, 32 and 33 and add it to the identity confirmation file without delay, *in any case within 24 hours*.

Amendment 176

Proposal for a regulation Article 29 – paragraph 4

Text proposed by the Commission

4. Where the authority responsible for the verification of different identities in the identity confirmation file is the border authority creating or updating an individual file in the EES in accordance with Article 14 of the EES Regulation, and where a yellow link is obtained, the border authority shall carry out additional verifications *as part of a second-line check. During this second-line check*, the border authorities shall have access to the related data contained in the relevant identity confirmation file and shall assess the different identities and shall update the

Amendment

4. Where the authority responsible for the verification of different identities in the identity confirmation file is the border authority creating or updating an individual file in the EES in accordance with Article 14 of the EES Regulation, and where a yellow link is obtained, the border authority shall carry out additional verifications. *For that purpose only*, the border authorities shall have access to the related data contained in the relevant identity confirmation file and shall assess the different identities and shall update the link in accordance with Articles 31 to 33 *of*

link in accordance with Articles 31 to 33 and add it to the identity confirmation file without delay.

this Regulation and add it to the identity confirmation file without delay.

Amendment 177

Proposal for a regulation Article 29 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. *The verification of different identities under this Article shall, as a rule, take place in the presence of the person concerned who shall be offered the opportunity to explain the circumstances to the authority responsible, which shall take those explanations into account. Where the verification leads to the establishment of a red link, the person concerned shall receive a justification in writing.*

Amendment 178

Proposal for a regulation Article 29 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. *The manual verification of different identities shall take place within 8 hours from the creation of a yellow link under Article 28(4).*

Amendment 179

Proposal for a regulation Article 29 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. *Prior to being authorised to verify identities, the staff of the authorities referred to in paragraphs 1 and 2 shall*

receive specific training on how to conduct the verification of different identities.

Amendment 180

Proposal for a regulation Article 30 – paragraph 1 – point b

Text proposed by the Commission

(b) the linked data has different identity data and no manual verification of different identity has taken place.

Amendment

(b) the linked data has different identity data, ***there is no biometric data to compare***, and no manual verification of different identity has taken place;

Amendment 181

Proposal for a regulation Article 30 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the linked data have the same identity data but different biometric data and no manual verification of different identities has taken place.

Amendment 182

Proposal for a regulation Article 31 – paragraph 1

Text proposed by the Commission

1. A link between data from two or more information systems shall be classified as green where ***the linked data do not share the same biometric but have similar identity data and the authority responsible for the verification of different identities concluded it refers to two different persons***

Amendment

1. A link between data from two or more information systems shall be classified as green where:

(a) the linked data do not share the same biometric but have similar identity

data and the authority responsible for the verification of different identities concluded it refers to two different persons;

(b) the linked data share the same biometric data and the authority responsible for the verification of different identities has concluded that it refers to two different persons.

Amendment 183

Proposal for a regulation Article 32 – paragraph 1 – point a

Text proposed by the Commission

(a) the linked data shares the same biometric but different identity data and the authority responsible for the verification of different identities concluded it refers *unlawfully* to the same person;

Amendment

(a) the linked data shares the same biometric but different identity data and the authority responsible for the verification of different identities concluded it refers to the same person *in an unjustified manner*;

Amendment 184

Proposal for a regulation Article 32 – paragraph 1 – point b

Text proposed by the Commission

(b) the linked data has similar identity data and the authority responsible for the verification of different identities concluded it refers *unlawfully* to the same person.

Amendment

(b) the linked data has similar identity data and the authority responsible for the verification of different identities concluded it refers to the same person *in an unjustified manner*.

Amendment 185

Proposal for a regulation Article 32 – paragraph 2

Text proposed by the Commission

2. Where the CIR or the SIS are queried and where a red link exists

Amendment

2. Where the CIR or the SIS are queried and where a red link exists

between two or more of the information systems constituting the CIR or with the SIS, the multiple-identity detector shall reply indicating the data referred to in Article 34. Follow-up to a red link shall take place in accordance with Union and national law.

between two or more of the information systems constituting the CIR or with the SIS, the multiple-identity detector shall reply indicating the data referred to in Article 34. Follow-up to a red link shall take place in accordance with Union and national law. ***No legal consequence for the person or persons concerned shall derive solely from the existence of a red link.***

Amendment 186

Proposal for a regulation Article 32 – paragraph 4

Text proposed by the Commission

4. ***Without prejudice to the provisions related to the handling of alerts in the SIS referred to in the [Regulations on SIS in the field of border checks, on SIS in the field of law enforcement and on SIS in the field of illegal return], and*** without prejudice to limitations necessary to protect security and public order, prevent crime and guarantee that any national investigation will not be jeopardised, where a red link is created, the authority responsible for verification of different identities shall inform the person of the presence of multiple unlawful identities.

Amendment

4. Without prejudice to limitations necessary to protect security and public order, prevent crime and guarantee that any national investigation will not be jeopardised, where a red link is created, the authority responsible for verification of different identities shall inform the person of the presence of multiple unlawful identities ***in accordance with Articles 12, 13 and 14 of Regulation (EU) 2016/679 and Article 13 of Directive (EU) 680/2016.***

Amendment 187

Proposal for a regulation Article 32 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5 a. Where a Member State authority or Union agency with access to the CIR or SIS obtains evidence showing that a red link recorded in the MID is incorrect or that the data processed in the MID, CIR and SIS were processed in breach of this Regulation, that authority shall, where the

link relates to Union information systems either rectify or erase the link from the MID immediately, or where the link relates to SIS, inform the relevant SIRENE Bureau of the Member State that created the SIS alert immediately. That SIRENE Bureau shall verify the evidence provided by the Member State authority and rectify or erase the link from the MID immediately thereafter.

Amendment 188

Proposal for a regulation

Article 33 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) the linked data shares the same identity data and different biometric data and the authority responsible for the verification of different identities has concluded that it refers to the same person and their biometric data has changed due to injury, illness or another legitimate reason.

Amendment 189

Proposal for a regulation

Article 33 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. If a Member State authority has evidence to suggest that a white link recorded in the MID is factually inaccurate, not up-to-date or that data were processed in the MID or the Union information systems or SIS in breach of this Regulation, it shall check the relevant data stored in the Union information systems and SIS and shall, if necessary, rectify or erase the link from the MID without delay. That Member State authority shall inform the Member State

responsible for the manual verification without delay.

Amendment 190

Proposal for a regulation

Article 34 – paragraph 1 – point d

Text proposed by the Commission

(d) *where relevant*, the authority responsible for the verification of different identities.

Amendment

(d) the authority responsible for the verification of different identities.

Amendment 191

Proposal for a regulation

Article 35 – paragraph 1

Text proposed by the Commission

The identity confirmation files and its data, including the links, shall be stored in the multiple-identity detector (MID) only for as long as the linked data is stored in two or more *EU* information systems.

Amendment

The identity confirmation files and its data, including the links, shall be stored in the multiple-identity detector (MID) only for as long as the linked data is stored in two or more *Union* information systems. ***Once this condition is no longer met, the identity confirmation files and their data, including all related links, shall be deleted automatically.***

Amendment 192

Proposal for a regulation

Article 36 – paragraph 1 – introductory part

Text proposed by the Commission

1. eu-LISA shall keep logs of all data processing operations within the MID. Those logs shall include, *in particular*, the following:

Amendment

1. eu-LISA shall keep logs of all data processing operations within the MID. Those logs shall include, the following:

Amendment 193

Proposal for a regulation

Article 36 – paragraph 1 – point -a (new)

Text proposed by the Commission

Amendment

(-a) the Member State authority launching the query;

Amendment 194

Proposal for a regulation

Article 36 – paragraph 1 – point f

Text proposed by the Commission

Amendment

(f) the identifying mark of the person who carried out the query. deleted

Amendment 195

Proposal for a regulation

Article 36 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In addition, Member States shall keep logs of the unique user identity of the official performing the query.

Amendment 196

Proposal for a regulation

Article 36 – paragraph 3

Text proposed by the Commission

Amendment

3. The logs may be used only for data protection monitoring, including checking the admissibility of a request and the lawfulness of data processing, and for ensuring *data* security pursuant to Article 42. The logs shall be protected by appropriate measures against unauthorised

3. The logs may be used only for data protection monitoring, including checking the admissibility of a request and the lawfulness of data processing, **for self-monitoring**, and for ensuring **the proper functioning and the data integrity and** security pursuant to Article 42. **To that**

access and erased *one year* after their creation, unless they are required for monitoring procedures that have already begun. The logs related to the history of the identity confirmation file shall be erased once the data in the identity confirmation file is erased.

end, access to those logs shall be granted as appropriate to the data controllers identified pursuant to Article 40, to the national supervisory authorities referred to in Article 51 of Regulation (EU)2016/679 and Article 41 of Directive (EU) 2016/680, and to the European Data Protection Supervisor. The logs shall be protected by appropriate measures against unauthorised access and erased *two years* after their creation, unless they are required for monitoring procedures that have already begun. The logs related to the history of the identity confirmation file shall be erased once the data in the identity confirmation file is erased.

Amendment 197

Proposal for a regulation Article 37 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Member States shall ensure that the quality of the data in the EES,[ETIAS], VIS, SIS, the shared BMS, the CIR and the MID are closely monitored in order to ensure that they meet the overall requirements for the proper functioning of the respective Union information systems and the interoperability components. Member States shall also ensure that all staff entering data in any of those Union information systems has received prior training on data quality.

Amendment 198

Proposal for a regulation Article 37 – paragraph 1

Text proposed by the Commission

Amendment

1. eu-LISA shall establish automated

1. eu-LISA shall establish *as soon as*

data quality control mechanisms and procedures on the data stored in the EES, *the* [ETIAS], *the* VIS, *the* SIS, *the* shared biometric matching service (shared BMS), *the* common identity repository (CIR) and *the* multiple-identity detector (MID).

possible automated data quality control mechanisms and procedures on the data stored in the EES, [ETIAS], VIS, SIS, *the* (shared BMS) and (CIR). *Those automated data quality control mechanisms shall be adequately tested prior to the start of operations of the interoperability components under Article 62.*

Amendment 199

Proposal for a regulation Article 37 – paragraph 2

Text proposed by the Commission

2. eu-LISA shall establish common data quality indicators and the minimum quality standards to store data in the EES, *the* [ETIAS], *the* VIS, *the* SIS, the shared BMS, the CIR and the MID.

Amendment

2. eu-LISA shall establish common data quality indicators and the minimum quality standards to store data in the EES, [ETIAS], VIS, SIS, the shared BMS, the CIR and the MID.

Only data fulfilling the minimum quality standards may be entered in the EES, [ETIAS], VIS, SIS, the shared BMS, the CIR and the MID.

If an authority attempts to enter data not fulfilling the applicable minimum quality standards, it shall immediately receive an automated warning from the relevant Union information system that the data cannot be entered, suggesting methods for satisfying the minimum quality standards.

Amendment 200

Proposal for a regulation Article 37 – paragraph 3

Text proposed by the Commission

3. eu-LISA shall provide regular reports on the automated data quality control mechanisms and procedures and the common data quality indicators to the Member States. eu-LISA shall also provide

Amendment

3. eu-LISA shall provide regular reports on the automated data quality control mechanisms and procedures and the common data quality indicators to the Member States. eu-LISA shall also provide

a regular report to the Commission covering the issues encountered and the Member States concerned.

a regular report to the Commission covering the issues encountered and the Member States concerned. ***eu-LISA shall also provide that report to the European Parliament and the Council upon request. No reports provided under this paragraph shall contain any personal data.***

Amendment 201

Proposal for a regulation Article 37 – paragraph 5

Text proposed by the Commission

5. One year after the establishment of the automated data quality control mechanisms and procedures and common data quality indicators and every year thereafter, the Commission shall evaluate Member State implementation of data quality and shall make any necessary recommendations. The Member States shall provide the Commission with an action plan to remedy any deficiencies identified in the evaluation report and shall report on any progress against this action plan until it is fully implemented. The Commission shall transmit the evaluation report to the European Parliament, to the Council, to the European Data Protection Supervisor and to the European Union Agency for Fundamental Rights established by Council Regulation (EC) No 168/2007.⁷⁶

⁷⁶ Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

Amendment

5. One year after the establishment of the automated data quality control mechanisms and procedures and common data quality indicators and every year thereafter, the Commission shall evaluate Member State implementation of data quality and shall make any necessary recommendations. The Member States shall provide the Commission with an action plan to remedy any deficiencies identified in the evaluation report and, ***in particular, data quality issues deriving from erroneous data in existing Union information systems and in SIS. The Commission*** shall report on any progress against this action plan until it is fully implemented. The Commission shall transmit the evaluation report to the European Parliament, to the Council, to the European Data Protection Supervisor, ***the European Data Protection Board*** and to the European Union Agency for Fundamental Rights established by Council Regulation (EC) No 168/2007.⁷⁶

⁷⁶ Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

Amendment 202

Proposal for a regulation Article 37 a (new)

Text proposed by the Commission

Amendment

Article 37a

Availability and response time for interrogation

All interoperability components shall be developed and managed in such a way as to ensure fast, seamless, efficient, controlled access, their full availability as laid down in Article 53(1) and a response time in line with the operational needs of the Member States' authorities.

Amendment 203

Proposal for a regulation Article 38 – paragraph 2

Text proposed by the Commission

Amendment

2. The UMF standard shall be used in the development of the EES, *the* [ETIAS], , the ***European search portal***, the CIR, the MID and, if appropriate, in the development by eu-LISA or any other ***EU body*** of new information exchange models and information systems in the area of Justice and Home Affairs.

2. The UMF standard shall be used in the development of the EES, [ETIAS], the ***ESP***, the CIR, the MID ***where feasible*** and, if appropriate, in the development by eu-LISA or any other ***Union agency*** of new information exchange models and ***Union*** information systems in the area of Justice and Home Affairs.

Amendment 204

Proposal for a regulation Article 38 – paragraph 3

Text proposed by the Commission

Amendment

3. ***The implementation of the UMF standard may be considered in the VIS, the SIS and in any existing or new cross-border information exchange models and information systems in the area of Justice***

deleted

and Home Affairs, developed by Member States or associated countries.

Amendment 205

Proposal for a regulation Article 39 – paragraph 1

Text proposed by the Commission

1. A central repository for reporting and statistics (CRRS) is established for the purposes of supporting the objectives of the EES, *the* VIS, [*the* ETIAS] and *the* SIS and to *generate* cross-system statistical data and analytical reporting for policy, operational and data quality purposes.

Amendment

1. A central repository for reporting and statistics (CRRS) is established for the purposes of supporting the objectives of the EES, VIS, [ETIAS] and SIS and to *provide* cross-system statistical data and analytical reporting for policy, operational and data quality purposes.

Amendment 206

Proposal for a regulation Article 39 – paragraph 3

Text proposed by the Commission

3. eu-LISA shall render the data anonymous and shall record such anonymous data in the CRRS. The process for rendering the data anonymous shall be automated.

Amendment

3. eu-LISA shall render the data anonymous, *by ensuring that the data subject is non-identifiable*, and shall record such anonymous data in the CRRS. The process for rendering the data anonymous shall be automated. *No access by eu-LISA staff shall be granted to any personal data stored in the Union information systems or in the interoperability components.*

The data contained in CRRS shall not allow for the identification of individuals.

Amendment 207

Proposal for a regulation Article 39 – paragraph 4 – point a

Text proposed by the Commission

Amendment

(a) a central infrastructure, consisting of a data repository ***enabling the rendering of anonymous data***;

(a) a central infrastructure, consisting of a data repository ***and a mechanism that ensures for the data to be rendered anonymous before it is stored in CRRS***;

Amendment 208

**Proposal for a regulation
Article 39 – paragraph 5**

Text proposed by the Commission

Amendment

5. The Commission shall lay down detailed rules on the operation of the CRRS, including specific safeguards for processing of personal data referred to under paragraph 2 and 3 and security rules applicable to the repository by means of ***implementing acts. Those implementing acts shall be*** adopted in accordance with the ***examination*** procedure referred to in Article ***64(2)***.

5. The Commission shall lay down detailed rules on the operation of the CRRS, including specific safeguards for processing of personal data referred to under paragraph 2 and 3 and security rules applicable to the repository by means of ***a delegated act*** adopted in accordance with the procedure referred to in Article ***63***.

Justification

The CRRS will constitute a further database at EU level, albeit that the personal data it contains should be anonymised. The rules related safeguards on data protection fall under the remit of the co-legislators and as such should be the subject of a delegated act.

Amendment 209

**Proposal for a regulation
Article 40 – paragraph 1**

Text proposed by the Commission

Amendment

1. In relation to the processing of data in the ***shared biometric matching service*** (shared BMS), the Member State authorities that are controllers for the VIS, EES, and SIS respectively, shall also be considered as controllers in accordance with Article 4(7) of Regulation (EU) 2016/679 in relation to the biometric

1. In relation to the processing of data in the shared BMS, the Member State authorities that are controllers for the VIS, EES, and SIS respectively, shall also be considered as controllers in accordance with Article 4(7) of Regulation (EU) 2016/679 ***or Article 3(8) of Directive (EU) 2016/680*** in relation to the biometric

templates obtained from the data referred to in Article 13 that they enter into respective systems and shall have responsibility for the processing of the biometric templates in the shared BMS.

templates obtained from the data referred to in Article 13 that they enter into respective systems and shall have responsibility for the processing of the biometric templates in the shared BMS. ***In relation to information security management of the shared BMS, eu-LISA shall be considered a controller.***

Amendment 210

Proposal for a regulation Article 40 – paragraph 3 – point a

Text proposed by the Commission

(a) the European Border and Coast Guard Agency shall be considered a data controller in accordance with Article **2(b)** of Regulation No 45/2001 in relation to processing of personal data by the ETIAS Central Unit;

Amendment

(a) the European Border and Coast Guard Agency shall be considered a data controller in accordance with Article **2(d)** of Regulation (**EC**) No 45/2001 in relation to processing of personal data by the ETIAS Central Unit;

Amendment 211

Proposal for a regulation Article 40 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *In relation to information security management of the interoperability components eu-LISA shall be considered a data controller in accordance with Regulation (EC) No 45/2001.*

Amendment 212

Proposal for a regulation Article 41 – paragraph 1

Text proposed by the Commission

In relation to the processing of personal data in the *CIR*, eu-LISA is to be

Amendment

In relation to the processing of personal data in the *shared BMS, the CIR and the*

considered the data processor in accordance with Article 2(e) of Regulation (EC) No 45/2001.

MID, eu-LISA is to be considered the data processor in accordance with Article 2(e) of Regulation (EC) No 45/2001.

Justification

The two missing interoperability components in which data processing takes place need to be added. There is no need to add the ESP as no processing of personal data takes place within it.

Amendment 213

Proposal for a regulation Article 42 – paragraph 1

Text proposed by the Commission

1. **Both** eu-LISA **and** the Member State authorities shall ensure the security of the processing of personal data that takes place pursuant to **the application of** this Regulation. eu-LISA, [**the ETIAS Central Unit**] and the Member State authorities shall cooperate on security-related tasks.

Amendment

1. eu-LISA, the Member State authorities **and Europol** shall ensure the security of the processing of personal data that takes place pursuant to this Regulation. eu-LISA **shall be responsible for the central infrastructure of the interoperability components and Member States shall be responsible for the parts referred to in Article 54.** eu-LISA, [**the European Border and Coast Guard Agency**], **Europol** and the Member State authorities shall cooperate on security-related tasks.

Amendment 214

Proposal for a regulation Article 42 – paragraph 3 – point a a (new)

Text proposed by the Commission

Amendment

(aa) **deny unauthorised persons access to data-processing equipment and installations;**

Amendment 215

Proposal for a regulation
Article 42 – paragraph 3 – point d a (new)

Text proposed by the Commission

Amendment

(da) prevent the use of automated data-processing systems by unauthorised persons using data communication equipment;

Amendment 216

Proposal for a regulation
Article 42 – paragraph 3 – point h a (new)

Text proposed by the Commission

Amendment

(ha) ensure that, in the event of interruption, installed systems can be restored to normal operation;

Amendment 217

Proposal for a regulation
Article 42 – paragraph 3 – point h b (new)

Text proposed by the Commission

Amendment

(hb) ensure reliability by making sure that any faults in the functioning of the interoperability components are properly reported;

Amendment 218

Proposal for a regulation
Article 42 – paragraph 3 – point i

Text proposed by the Commission

Amendment

(i) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring to ensure compliance with this

(i) monitor the effectiveness of the security measures referred to in this paragraph and take the necessary organisational measures related to internal monitoring to ensure compliance with this

Regulation.

Regulation *and to assess those security measures in the light of new technological developments.*

Amendment 219

Proposal for a regulation Article 42 – paragraph 4

Text proposed by the Commission

4. Member States shall take measures equivalent to those referred to in paragraph 3 as regards security in respect of the processing of personal data by the authorities having a right to access any of the interoperability components.

Amendment

4. Member States, *Europol and the European Border and Coast Guard Agency* shall take measures equivalent to those referred to in paragraph 3 as regards security in respect of the processing of personal data by the authorities having a right to access any of the interoperability components.

Amendment 220

Proposal for a regulation Article 43 – title

Text proposed by the Commission

Confidentiality of *SIS* data

Amendment

Confidentiality of data

Amendment 221

Proposal for a regulation Article 43 – paragraph 1

Text proposed by the Commission

1. Each Member State shall apply its rules of professional secrecy or other equivalent duties of confidentiality to all persons and bodies required to work with *SIS* data accessed through any of the interoperability components in accordance with its national law. That obligation shall also apply after those persons leave office or employment or after the termination of

Amendment

1. Each Member State shall apply its rules of professional secrecy or other equivalent duties of confidentiality to all persons and bodies required to work with data accessed through any of the interoperability components in accordance with its national law. That obligation shall also apply after those persons leave office or employment or after the termination of

the activities of those bodies.

the activities of those bodies.

Amendment 222

Proposal for a regulation Article 43 – paragraph 2

Text proposed by the Commission

2. Without prejudice to Article 17 of the Staff Regulations of officials and the Conditions of Employment of other servants of the European Union, eu-LISA shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality of comparable standards to those laid down in paragraph 1 to all its staff required to work with **SIS** data. This obligation shall also apply after those persons leave office or employment or after the termination of their activities.

Amendment

2. Without prejudice to Article 17 of the Staff Regulations of officials and the Conditions of Employment of other servants of the European Union, eu-LISA shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality of comparable standards to those laid down in paragraph 1 **of this Article** to all its staff required to work with data. This obligation shall also apply after those persons leave office or employment or after the termination of their activities.

Amendment 223

Proposal for a regulation Article 43 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Where eu-LISA or a Member State cooperates with external contractors in any task related to the interoperability components, it shall closely monitor the activities of the contractor to ensure compliance with all provisions of this Regulation, in particular those on security, confidentiality and data protection.

Amendment 224

Proposal for a regulation Article 44 – paragraph 1

Text proposed by the Commission

1. Any event that has or may have an impact on the security of the interoperability components and may cause damage to or loss of data stored in them shall be considered to be a security incident, in particular where unauthorised access to data may have occurred or where the availability, integrity and confidentiality of data has or may have been compromised.

Amendment

1. Any event that has or may have an impact on the security of the interoperability components and may cause ***unauthorised access to***, damage to or loss of data stored in them shall be considered to be a security incident, in particular where unauthorised access to data may have occurred or where the availability, integrity and confidentiality of data has or may have been compromised.

Amendment 225

Proposal for a regulation
Article 44 – paragraph 3

Text proposed by the Commission

3. Without prejudice to the notification and communication of a personal data breach pursuant to Article 33 of Regulation (EU) 2016/679, Article 30 of Directive (EU) 2016/680, or both, Member States shall notify the Commission, eu-LISA and the European Data Protection Supervisor of security incidents. In the event of a security incident in relation to the central infrastructure of the interoperability components, eu-LISA shall notify the Commission and the European Data Protection Supervisor.

Amendment

3. Without prejudice to the notification and communication of a personal data breach pursuant to Article 33 of Regulation (EU) 2016/679, Article 30 of Directive (EU) 2016/680, or both, Member States ***and Europol*** shall notify the Commission, eu-LISA, ***competent supervisory authorities*** and the European Data Protection Supervisor of ***any*** security incidents ***without delay***. In the event of a security incident in relation to the central infrastructure of the interoperability components, eu-LISA shall notify the Commission and the European Data Protection Supervisor.

Amendment 226

Proposal for a regulation
Article 44 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission shall report serious incidents immediately to the European Parliament and to the Council.

Those reports shall be classified as EURESTRICTED/RESTREINT UE in accordance with applicable security rules.

Amendment 227

Proposal for a regulation Article 44 – paragraph 4

Text proposed by the Commission

4. Information regarding a security incident that has or may have an impact on the operation of the interoperability components or on the availability, integrity and confidentiality of the data shall be provided to the Member States and reported in compliance with the incident management plan to be provided by eu-LISA.

Amendment

4. Information regarding a security incident that has or may have an impact on the operation of the interoperability components or on the availability, integrity and confidentiality of the data shall be provided to the Member States , ***the ETIAS Central Unit where necessary, and Europol without delay*** and reported in compliance with the incident management plan to be provided by eu-LISA.

Amendment 228

Proposal for a regulation Article 44 – paragraph 5

Text proposed by the Commission

5. The Member States concerned and eu-LISA shall cooperate in the event of a security incident. The Commission shall lay down the specification of this cooperation procedure by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).

Amendment

5. The Member States concerned, ***the ETIAS Central Unit, Europol*** and eu-LISA shall cooperate in the event of a security incident. The Commission shall lay down the specification of this cooperation procedure by means of implementing acts. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64(2).

Amendment 229

Proposal for a regulation Article 45 – paragraph 1

Text proposed by the Commission

Member States and the relevant **EU bodies** shall ensure that each authority entitled to access the interoperability components takes the measures necessary to monitor its compliance with this Regulation and cooperates, *where necessary*, with the supervisory authority.

Amendment 230

Proposal for a regulation

Article 45 a (new)

Text proposed by the Commission

Amendment

Member States and the relevant **Union agencies** shall ensure that each authority entitled to access the interoperability components takes the measures necessary to monitor its compliance with this Regulation and cooperates with the supervisory authority.

Amendment

Article 45a

Penalties

Member States shall ensure that any misuse of data, processing of data or exchange of data contrary to this Regulation is punishable in accordance with national law. The penalties provided shall be effective, proportionate and dissuasive and shall include the possibility for administrative and criminal penalties.

Amendment 231

Proposal for a regulation

Article 45 b (new)

Text proposed by the Commission

Amendment

Article 45b

Liability

1. Without prejudice to the right to compensation from, and liability of, the controller or processor under Regulations (EC) No 45/2001 and (EU) 2016/679 and Directive (EU) 2016/680:

(a) any person or Member State that has

suffered material or non-material damage as a result of an unlawful personal data processing operation or any other act incompatible with this Regulation by a Member State shall be entitled to receive compensation from that Member State; and

(b) any person or Member State that has suffered material or non-material damage as a result of any act by Europol, the European Border and Coast Guard Agency or eu-LISA incompatible with this Regulation shall be entitled to receive compensation from the agency in question.

The Member State concerned, Europol, the European Border and Coast Guard Agency or eu-LISA shall be exempted from their liability under the first subparagraph, in whole or in part, if they prove that they are not responsible for the event which gave rise to the damage.

2. If any failure of a Member State to comply with its obligations under this Regulation causes damage to the interoperability components, that Member State shall be liable for such damage, unless and insofar as eu-LISA or another Member State bound by this Regulation failed to take reasonable measures to prevent the damage from occurring or to minimise its impact.

3. Claims for compensation against a Member State for the damage referred to in paragraphs 1 and 2 shall be governed by the national law of the defendant Member State. Claims for compensation against the controller or eu-LISA for the damage referred to in paragraphs 1 and 2 shall be subject to the conditions provided for in the Treaties.

Amendment 232

**Proposal for a regulation
Article 46 – title**

Right *of* information

Right *to* information

Amendment 233

Proposal for a regulation Article 46 – paragraph 1

Text proposed by the Commission

Amendment

1. *Without prejudice to the right of information referred to in Articles 11 and 12 of Regulation (EC) 45/2001 and Articles 13 and 14 of Regulation (EU) 2016/679, persons whose data are stored in the shared biometric matching service, the *common identity repository* or the *multiple-identity detector* shall *be informed by* the authority *collecting their data*, at the time *their* data are collected, *about the processing of personal data for the purposes of this Regulation, including about identity and contact details of the respective data controllers, and about the procedures for exercising their rights of access, rectification and erasure, as well as about the contact details of the European Data Protection Supervisor and of the national supervisory authority of the Member State responsible for the collection of the data.**

1. *The authority collecting the data of persons whose data are stored in the shared **BMS**, the **CIR** or the **MID** shall **provide those persons with the information required under Articles 11 and 12 of Regulation, (EC) 45/2001 and Articles 13 and 14 of Regulation (EU) 2016/679 in the manner required by Article 12 and Article 13 of Directive 2016/680.** The authority *shall provide the information* at the time *that such* data are collected.*

Amendment 234

Proposal for a regulation Article 46 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. All information shall be provided to data subjects in a manner and language which they understand, or are reasonably expected to understand. This shall include providing information in a manner which is appropriate to the age of

the data subjects who are minors.

Amendment 235

**Proposal for a regulation
Article 46 a (new)**

Text proposed by the Commission

Amendment

Article 46a

Information Campaign

The Commission shall, in cooperation with the supervisory authorities and the European Data Protection Supervisor, accompany the start of operations of each interoperability component with an information campaign informing the public and, in particular, third-country nationals, about the objectives and the functioning of those components, the authorities having access and the conditions for such access, and the rights of persons concerned. Such information campaigns shall be conducted continuously.

Amendment 236

**Proposal for a regulation
Article 47 – title**

Text proposed by the Commission

Amendment

Right of access, *correction* and erasure

Right of access *to, rectification, completion* and erasure *of personal data, and of restriction of the processing thereof - web service*

Amendment 237

**Proposal for a regulation
Article 47 – paragraph 1**

Text proposed by the Commission

1. In order to exercise their rights under Articles 13, 14, 15 and 16 of Regulation (EC) 45/2001 and Articles 15, 16, 17 and 18 of Regulation (EU) 2016/679, any person shall have the right to address him or herself to the Member State responsible for the manual verification of different identities or of any Member State, who shall examine and reply to the request.

Amendment 238

**Proposal for a regulation
Article 47 – paragraph 1 a (new)**

Text proposed by the Commission

Amendment

1. In order to exercise their rights under Articles 13, 14, 15 and 16 of Regulation (EC) 45/2001 and Articles 15, 16, 17 and 18 of Regulation (EU) 2016/679 **and Articles 14 and 16 of Directive (EU) 2016/680 as regards the processing of personal data in the CIR, the shared BMS and the MID**, any person shall have the right to address him or herself to the Member State responsible for the manual verification of different identities or of any **to any other** Member State, who shall examine and reply to the request.

1a. Without prejudice to paragraph 1, and in order to facilitate and better enable the effective exercise of the rights of data subjects as described in paragraph 1 to access, rectify, erase or restrict the processing of their personal data under interoperability components, in particular for those third-country nationals who may be outside the territory of the Member States, eu-LISA shall establish a web service, hosted in its technical site, which shall enable data subjects to make requests for access, correction, erasure or rectification of their personal data. The web service shall act as a single point of contact for those third-country nationals who are outside the territory of the Member States.

The web service shall immediately transmit such requests to the Member State responsible for manual verification of different identities in accordance with Article 29 or, where appropriate, to the

Member State responsible for the entry of the data in the underlying Union information system which is the subject of the request.

Amendment 239

Proposal for a regulation Article 47 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The Commission shall adopt implementing acts concerning the detailed rules on the conditions for the operation of the web service and the applicable data protection and security rules. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 64.

Amendment 240

Proposal for a regulation Article 47 – paragraph 2

Text proposed by the Commission

Amendment

2. The Member State responsible for the manual verification of different identities as referred to in Article 29 or the Member State to which the request has been made shall reply to such requests within **45 days** of receipt of the request.

2. The Member State responsible for the manual verification of different identities as referred to in Article 29 or the Member State to which the request has been made, ***either directly from the data subject in accordance with paragraph 1 or via the web service in accordance with paragraph 1a***, shall reply to such requests ***without undue delay and in any event within one month*** of receipt of the request.

Amendment 241

Proposal for a regulation Article 47 – paragraph 3

Text proposed by the Commission

3. If a request for correction or erasure of personal data is made to a Member State other than the Member State responsible, the Member State to which the request has been made shall contact the authorities of the Member State responsible within seven days and the Member State responsible shall check the accuracy of the data and the lawfulness of the data processing within **30 days** of such contact.

Amendment

3. If a request for **access**, correction or erasure of personal data is made to a Member State other than the Member State responsible, the Member State to which the request has been made shall contact the authorities of the Member State responsible **in writing** within seven days and the Member State responsible shall check the accuracy of the data and the lawfulness of the data processing **without undue delay and in any event** within **one month** of such contact. **The person concerned shall be informed by the Member State which contacted the authority of the Member State responsible that his or her request was forwarded about the further procedure.**

Amendment 242

**Proposal for a regulation
Article 47 – paragraph 4**

Text proposed by the Commission

4. Where, following an examination, it is found that the data stored in the **multiple-identity detector (MID)** are factually inaccurate or have been recorded unlawfully, the Member State responsible or, where applicable, the Member State to which the request has been made shall correct or delete these data.

Amendment

4. Where, following an examination, it is found that the data stored in the **CIR, the shared BMS and MID** are factually inaccurate or have been recorded unlawfully, the Member State responsible or, where applicable, the Member State to which the request has been made shall **immediately** correct or delete these data. **The person concerned shall be informed in writing that his or her data has been rectified or erased.**

Amendment 243

**Proposal for a regulation
Article 47 – paragraph 4 a (new)**

4a. *Any person shall have the right to lodge a complaint and the right to a legal remedy in the Member State which has refused the right of access to or the right of rectification or erasure of data relating to him or her, in accordance with Union or national law.*

Amendment 244

Proposal for a regulation Article 47 – paragraph 5

Text proposed by the Commission

Amendment

5. Where data in the MID is amended by the responsible Member State during its validity period, the responsible Member State shall carry out the processing laid down in Article 27 and, where relevant, Article 29 to determine whether the amended data shall be linked. Where the processing does not report any hit, the responsible Member State or, where applicable, the Member State to which the request has been made shall delete the data from the identity confirmation file. Where the automated processing reports one or several hit(s), the responsible Member State shall create or update the relevant link in accordance with the relevant provisions of this Regulation.

5. Where data *in the CIR, the shared BMS or* in the MID is amended by the responsible Member State during its validity period, the responsible Member State shall carry out the processing laid down in Article 27 and, where relevant, Article 29 to determine whether the amended data shall be linked. Where the processing does not report any hit, the responsible Member State or, where applicable, the Member State to which the request has been made shall delete the data from the identity confirmation file. Where the automated processing reports one or several hit(s), the responsible Member State shall create or update the relevant link in accordance with the relevant provisions of this Regulation.

Amendment 245

Proposal for a regulation Article 47 – paragraph 6

Text proposed by the Commission

Amendment

6. Where the responsible Member State or, where applicable, the Member State to which the request has been made

6. Where the responsible Member State or, where applicable, the Member State to which the request has been made

does not agree that data stored in the MID are factually inaccurate or have been recorded unlawfully, that Member State shall adopt an administrative decision explaining in writing to the person concerned without delay why it is not prepared to correct or delete data relating to him or her.

does not agree that data stored in *the CIR, the shared BMS or* the MID are factually inaccurate or have been recorded unlawfully, that Member State shall adopt an administrative decision explaining in writing to the person concerned without delay why it is not prepared to correct or delete data relating to him or her.

Amendment 246

Proposal for a regulation Article 47 – paragraph 7

Text proposed by the Commission

7. This decision shall also provide the person concerned with information explaining the possibility to challenge the decision taken in respect of the request referred in *paragraph 3* and, *where relevant*, information on how to bring an action or a complaint before the competent authorities or courts, and any assistance, including from the competent national supervisory authorities.

Amendment

7. This decision shall also provide the person concerned with information explaining the possibility to challenge the decision taken in respect of the request referred *to* in *paragraphs 1, 2 and 3* and, information on how to bring an action or a complaint before the competent authorities or courts, and any assistance, including from the competent national supervisory authorities *together with its contact details*.

Amendment 247

Proposal for a regulation Article 47 – paragraph 8

Text proposed by the Commission

8. Any request made pursuant to *paragraph 3* shall contain the necessary information to identify the person concerned. That information shall be used exclusively to enable the exercise of the rights referred to in paragraph 3 and shall be erased immediately afterwards.

Amendment

8. Any request made pursuant to *paragraphs 1, 2 and 3* shall contain the necessary information to identify the person concerned. That information shall be used exclusively to enable the exercise of the rights referred to in paragraph 3 and shall be erased immediately afterwards.

Amendment 248

Proposal for a regulation
Article 47 – paragraph 9

Text proposed by the Commission

9. The responsible Member State or, where applicable, the Member State to which the request has been made shall keep a record in the form of a written document that a request referred to in **paragraph 3** was made and how it was addressed, and shall make that document available to competent data protection national supervisory authorities without delay.

Amendment 249

Proposal for a regulation
Article 48 – paragraph 1

Text proposed by the Commission

Personal data stored in or accessed by the interoperability components shall not be transferred or made available to any third country, to any international organisation or to any private party, **with the exception of transfers to Interpol for the purpose of carrying out the automated processing referred to in [Article 18(2)(b) and (m) of the ETIAS Regulation] or for the purposes of Article 8(2) of Regulation (EU) 2016/399. Such transfers of personal data to Interpol shall be compliant with the provisions of Article 9 of Regulation (EC) No 45/2001 and Chapter V of Regulation (EU) 2016/679.**

Amendment 250

Proposal for a regulation
Article 48 – paragraph 1 a (new)

Amendment

9. The responsible Member State or, where applicable, the Member State to which the request has been made shall keep a record in the form of a written document that a request referred to in **paragraphs 1, 2 and 3** was made and how it was addressed, and shall make that document available to competent data protection national supervisory authorities without delay.

Amendment

Without prejudice to [Article 65 of the ETIAS Regulation], Article 41 of Regulation (EU) 2017/2226, Article 31 of Regulation (EC) No 767/2008, Article 25 of Regulation (EU) 2016/794 and the querying of Interpol databases through the ESP in accordance with Article 9(5) of this Regulation, personal data stored in, processed or accessed by the interoperability components shall not be transferred or made available to any third country, to any international organisation or to any private party.

Text proposed by the Commission

Amendment

Any breach of this Article shall be considered a serious security incident and shall be immediately reported and addressed in accordance with Article 44.

Amendment 251

Proposal for a regulation Article 49 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Each Member State shall ensure that the supervisory authority referred to in Article 51(1) of Regulation (EU) 2016/679 independently monitors the lawfulness of the processing of personal data pursuant to this Regulation by the Member State concerned.

Amendment 252

Proposal for a regulation Article 49 – paragraph -1 a (new)

Text proposed by the Commission

Amendment

-1a. Each Member State shall ensure that the national laws, regulations and administrative provisions adopted pursuant to Directive (EU) 2016/680 are also applicable to access to the interoperability components by police authorities and designated authorities, including in relation to the rights of the persons whose data are so accessed.

Amendment 253

Proposal for a regulation Article 49 – paragraph -1 b (new)

-1b. *The supervisory authority referred to in Article 41(1) of Directive (EU)2016/680 shall monitor the lawfulness of the access to personal data by the Member States police authorities and designated authorities. Article 49(2) and (2a) of this Regulation shall apply accordingly.*

Amendment 254

Proposal for a regulation Article 49 – paragraph 1

Text proposed by the Commission

1. The supervisory authority or authorities **designated pursuant to** Article 49 of Regulation (EU) 2016/679 shall ensure that an audit of the data processing operations by the responsible national authorities is carried out in accordance with relevant international auditing standards at least every four years.

Amendment

1. The supervisory authority or authorities **referred to in** Article 51(1) of Regulation (EU)2016/679 **or pursuant to Article 41 of Directive (EU) 2016/680** shall ensure that an audit of the data processing operations by the responsible national authorities is carried out in accordance with relevant international auditing standards at least every four years. ***The first such audit shall be carried out two years after the date on which the last interoperability component starts operations under Article 62. The results of the audit may be taken into account in the evaluations conducted under the mechanism established by Council Regulation (EU) No 1053/2013^{1a}. The supervisory authorities referred to in Article 51(1) of Regulation (EU) 2016/679 and Article 41(1) of Directive (EU) 2016/680 shall publish annually the number of requests for rectification, completion or erasure, or restriction of processing of data, the action subsequently taken and the number of rectifications, completions, erasures and restrictions of processing made in response to requests by the persons***

concerned.

^{1a} Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen acquis and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen (OJ L 295, 6.11.2013, p. 27).

Amendment 255

Proposal for a regulation Article 49 – paragraph 2

Text proposed by the Commission

2. Member States shall ensure that their supervisory authority has sufficient resources to fulfil the tasks entrusted to it under this Regulation.

Amendment

2. Member States shall ensure that their supervisory authority has sufficient resources, ***including both human and financial resources***, to fulfil the tasks entrusted to it under this Regulation ***and has access to advice from persons with sufficient knowledge of biometric data. Member States shall grant the supervisory authority access to their logs without prejudice to constraints imposed binational security interests.***

Amendment 256

Proposal for a regulation Article 49 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall supply any information requested by a supervisory authority referred to in Article 51(1) of Regulation (EU) 2016/679 and shall, in particular, provide it with information on the activities carried out in accordance with their responsibilities as laid down in this Regulation. Member States shall

grant the supervisory authorities referred to in Article 51(1) of Regulation (EU) 2016/679 access to their logs and allow them to access all their premises used for interoperability purposes at all times.

Amendment 257

Proposal for a regulation Article 50 – paragraph 1

Text proposed by the Commission

The European Data Protection Supervisor shall ensure that an audit of eu-LISA's personal data processing activities is carried out in accordance with relevant international auditing standards at least every four years. A report of that audit shall be sent to the European Parliament, the Council, eu-LISA, the Commission and the Member States. eu-LISA shall be given an opportunity to make comments before the reports are adopted.

Amendment

The European Data Protection Supervisor shall be responsible for monitoring the personal data processing activities of eu-LISA, Europol and the European Border and Coast Guard Agency under this Regulation and for ensuring that such activities are carried out in accordance with Regulation (EC) No 45/2001, Regulation (EU) 2016/794 and with this Regulation.

eu-LISA shall supply information requested by the European Data Protection Supervisor to it, give the European Data Protection Supervisor access to all the documents and to its logs referred to in Articles 10, 16, 24 and 36 and allow the European Data Protection Supervisor access to all its premises at any time.

The European Data Protection Supervisor shall ensure that an audit of eu-LISA's personal data processing activities is carried out in accordance with relevant international auditing standards at least every four years. ***The first such audit shall be carried out two years after the date on which the last interoperability component starts operations in accordance with Article 62.*** A report of that audit shall be sent to the European Parliament, the Council, eu-LISA, the Commission and the Member States. eu-LISA shall be given an opportunity to make comments before the

reports are adopted. ***The European Data Protection Supervisor shall have sufficient additional resources, including both human and financial resources, to fulfil the tasks entrusted to it under this Regulation.***

Amendment 258

Proposal for a regulation Article 51 – paragraph 1

Text proposed by the Commission

1. The European Data Protection Supervisor shall ***act in close cooperation with national supervisory authorities with respect to specific issues requiring national involvement***, in particular if the European Data Protection Supervisor or a national supervisory authority finds major discrepancies between practices of Member States or finds potentially unlawful transfers using the communication channels of the interoperability components, ***or in the context of questions raised by one or more national supervisory authorities on the implementation and interpretation of this Regulation.***

Amendment

1. ***The supervisory authorities and the European Data Protection Supervisor shall, each acting within the scope of their respective competences, cooperate actively within the framework of their respective responsibilities and ensure coordinated supervision of the use of the interoperability components and the application of other provisions of this Regulation***, in particular if the European Data Protection Supervisor or a national supervisory authority finds major discrepancies between practices of Member States or finds potentially unlawful transfers using the communication channels of the interoperability components.

Amendment 259

Proposal for a regulation Article 51 – paragraph 2

Text proposed by the Commission

2. In the cases referred to in paragraph 1, ***coordinated supervision shall be ensured in accordance with Article 62 of Regulation (EU) XXXX/2018 [revised Regulation 45/2001].***

Amendment

2. ***The European Data Protection Supervisor and the supervisory authorities shall exchange relevant information, assist each other in carrying out audits and inspections, examine any difficulties concerning the interpretation or application of this Regulation, assess***

problems in the exercise of independent supervision or in the exercise of the rights of the data subject, draw up harmonised proposals for joint solutions to any problems and promote awareness of data protection rights, as necessary.

Amendment 260

Proposal for a regulation Article 51 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *For the purpose of paragraph 2, the supervisory authorities and the European Data Protection Supervisor shall meet at least twice a year within the framework of the European Data Protection Board established by Regulation (EU)2016/679 (the ‘European Data Protection Board’). The costs of those meetings shall be borne by that Board, which shall also organise them. Rules of procedure shall be adopted at the first meeting. Further working methods shall be developed jointly as necessary.*

Amendment 261

Proposal for a regulation Article 51 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. *The European Data Protection Board shall send a joint report of activities to the European Parliament, the Council, the Commission, Europol, the European Border and Coast Guard Agency and eu-LISA two years after entry into force of this Regulation and every two years thereafter. That report shall include a chapter on each Member State prepared by the supervisory authority of that Member State.*

Amendment 262

Proposal for a regulation Article 52 – paragraph 2

Text proposed by the Commission

2. The interoperability components shall be hosted by eu-LISA in its technical sites and shall provide the functionalities laid down in this Regulation in accordance with the conditions of security, availability, quality and speed referred to in Article 53(1).

Amendment

2. The interoperability components shall be hosted by eu-LISA in its technical sites and shall provide the functionalities laid down in this Regulation in accordance with the conditions of security, availability, quality and speed referred to in Article 37, **Article 37a and Article 53(1)**.

Amendment 263

Proposal for a regulation Article 52 – paragraph 3 – subparagraph 1

Text proposed by the Commission

eu-LISA shall be responsible for the development of the interoperability components, for any adaptations required for establishing interoperability between the central systems of the EES, VIS, [ETIAS], SIS, and Eurodac, and [*the ECRIS-TCN system*], and the *European search portal*, the shared *biometric matching service*, *the common identity repository* and the *multiple-identity detector*.

Amendment

eu-LISA shall be responsible for the *design and* development of the interoperability components, for any adaptations required for establishing interoperability between the central systems of the EES, VIS, [ETIAS], SIS, and Eurodac, and [ECRIS-TCN], and the *ESP*, the shared *BMS*, *the CIR*, *the MID* and the *CRRS*.

Amendment 264

Proposal for a regulation Article 52 – paragraph 3 – subparagraph 4

Text proposed by the Commission

The development shall consist of the elaboration and implementation of the technical specifications, testing and overall

Amendment

The development shall consist of the elaboration and implementation of the technical specifications, testing and overall project *management and* coordination. *eu-*

project coordination.

LISA shall follow the principles of privacy by design and by default during the entire lifecycle of the development of the interoperability components.

Amendment 265

Proposal for a regulation

Article 53 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Following the entry into operations of each interoperability component, eu-LISA shall be responsible for the technical management of the central infrastructure ***and the national uniform interfaces***. In cooperation with the Member States, it shall ensure at all times the best available technology, subject to a cost-benefit analysis. eu-LISA shall also be responsible for the technical management of the communication infrastructure referred to in Articles 6, 12, 17, 25 and 39.

Amendment

Following the entry into operations of each interoperability component, eu-LISA shall be responsible for the technical ***and security*** management of the central infrastructure ***of the interoperability components, including maintenance and technological developments***. In cooperation with the Member States, it shall ensure ***that*** at all times the best available technology ***is used***, subject to a cost-benefit analysis. eu-LISA shall also be responsible for the technical management ***and security*** of the communication infrastructure referred to in Articles 6, 12, 17, 25 and 39.

Amendment 266

Proposal for a regulation

Article 53 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Technical management of the interoperability components ***shall consist*** of all the tasks necessary to keep the interoperability components functioning 24 hours a day, 7 days a week in accordance with this Regulation, in particular the maintenance work and technical developments necessary to ensure that the components function at a satisfactory level of technical quality, in particular as regards the response time for interrogation of the

Amendment

Technical management of the interoperability components ***consists*** of all the tasks necessary to keep the interoperability components functioning 24 hours a day, 7 days a week in accordance with this Regulation, in particular the maintenance work and technical developments necessary to ensure that the components function at a satisfactory level of technical quality, in particular as regards the response time for interrogation of the

central infrastructures in accordance with the technical specifications.

central infrastructures in accordance with the technical specifications.

Amendment 267

Proposal for a regulation

Article 53 – paragraph 1 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Security management of the interoperability components shall consist of all the tasks necessary to ensure the integrity, confidentiality and availability of all interoperability components in accordance with this Regulation, in particular information security risk assessments and preventive measures to avoid both physical and IT security incidents and the actions required to respond and recover from them if they cannot be avoided.

Amendment 268

Proposal for a regulation

Article 54 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) fully complying with the rules of each IT system to ensure the security and integrity of personal data;

Amendment 269

Proposal for a regulation

Article 54 – paragraph 1 – point h a (new)

Text proposed by the Commission

Amendment

(ha) reporting any security incidents involving personal data to the Commission, eu-LISA, the national supervisory authorities and the European

Amendment 270

**Proposal for a regulation
Article 54 a (new)**

Text proposed by the Commission

Amendment

Article 54a

Responsibilities of Europol

- 1. Europol shall ensure processing of the queries by the ESP and the shared BMS to Europol data and shall accordingly adapt its Querying Europol Systems (QUEST) interface for basic protection level (BPL) data.***
- 2. Europol shall be responsible for the management of, and arrangements for, its duly authorised staff to use and access respectively the ESP and the CIR in accordance with this Regulation and the creation and regular update of a list of those staff and their profiles.***
- 3. Any data processing by Europol under this Regulation shall be subject to Regulation (EU) 2016/794.***

Amendment 271

**Proposal for a regulation
Article 55a – paragraph 1
Regulation (EU) 2016/399
Article 8 – paragraph 4a – subparagraph 2**

Text proposed by the Commission

Amendment

The border guard ***at second line*** shall consult the multiple-identity detector together with the common identity repository referred to in [Article 4(35) of Regulation 2018/XX on interoperability] or the Schengen Information System or both to assess the differences in the linked identities and shall carry out any additional

The border guard shall consult the multiple-identity detector together with the common identity repository referred to in [Article 4(35) of Regulation 2018/XX on interoperability] or the Schengen Information System or both to assess the differences in the linked identities and shall carry out any additional verification

verification necessary to take a decision on the status and colour of the link as well as to take a decision on the entry or refusal of entry of the person concerned.

necessary to take a decision on the status and colour of the link as well as to take a decision on the entry or refusal of entry of the person concerned.

Amendment 272

Proposal for a regulation

Article 55b – paragraph 1 – point 13

Regulation (EU) 2017/2226

Article 32 – paragraph 1 a (new)

Text proposed by the Commission

1a. In cases where the designated authorities launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], they may access EES for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data is stored in the EES.

Amendment

1a. In cases where the designated authorities launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], they may access EES for consultation ***where the conditions laid down in this Article are met and*** where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data is stored in the EES.

Amendment 273

Proposal for a regulation

Article 55b – paragraph 1 – point 14

Regulation (EU) 2017/2226

Article 32 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Access to the EES as a tool for the purpose of identifying an unknown suspect, perpetrator or suspected victim of a terrorist ***offence or otherwise*** serious criminal offence shall only be allowed when a query to the CIR was launched in accordance with [Article 22 of Regulation 2018/XX on interoperability] and all the conditions listed in paragraph 1 and paragraph 1a are met.

Amendment

Access to the EES as a tool for the purpose of identifying an unknown suspect, perpetrator or suspected victim of a terrorist ***offence or other*** serious criminal offence shall only be allowed when a query to the CIR was launched in accordance with [Article 22 of Regulation 2018/XX on interoperability] and all the conditions listed in paragraph 1 and paragraph 1a ***of this Article*** are met.

Amendment 274

Proposal for a regulation

Article 55b – paragraph 1 – point 16

Regulation (EU) 2017/2226

Article 33 – paragraph 1 a (new)

Text proposed by the Commission

1a. In cases where Europol launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], they may access EES for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data is stored in the EES.

Amendment

1a. In cases where Europol launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], they may access EES for consultation ***where the conditions laid down in this Article are met and*** where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data is stored in the EES.

Amendment 275

Proposal for a regulation

Article 55b – paragraph 1 – point 24 a (new)

Regulation (EU) 2017/2226

Article 52 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

(24a) In Article 52, the following paragraph is added:

7a. Third-country nationals wishing to exercise their rights under this Article may make use of the web service as provided for in Article 47 of [the Regulation on establishing a framework for interoperability between Union information systems (border and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399, Regulation (EU) 2017/2226], Regulation (EU) 2018/XX [the ETIAS Regulation], Regulation (EU) 2018/XX [the Regulation on SIS in the

Amendment 276

Proposal for a regulation

Article 55d – paragraph 1 – point 1 – introductory part

Text proposed by the Commission

1) In Article 1, the following paragraph is added:

Amendment

(1) In Article 2, the following paragraph is added:

Justification

Article 2 lists the purposes of the VIS while Article 1 deals with the subject matter and scope.

Amendment 277

Proposal for a regulation

Article 55d – paragraph 1 – point 1

Regulation (EC) No 767/2008

Article 2 – paragraph 2

Text proposed by the Commission

2. By storing identity, travel document and biometric data in the common identity repository (CIR) established by [Article 17 of Regulation 2018/XX on interoperability], *the* VIS contributes to facilitating and assisting in the correct identification of persons registered in *the* VIS under the conditions and for the *ultimate objectives laid down in paragraph 1 of this* Article.

Amendment

2. By storing identity, travel document and biometric data in the common identity repository (CIR) established by [Article 17 of Regulation 2018/XX on interoperability], VIS contributes to facilitating and assisting in the correct identification of persons registered in VIS under the conditions and *solely* for the *purpose of identification referred to in Article 20 of this Regulation*.

Amendment 278

Proposal for a regulation

Article 55d – paragraph 1 – point 7 a (new)

Regulation (EC) No 767/2008

Article 38 – paragraph 6 a (new)

(7a) In Article 38, the following paragraph is added:

6a. Third-country nationals wishing to exercise their rights under this Article may make use of the web service provided for in Article 47 of [Regulation on establishing a framework for interoperability between Union information systems (borders and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399, Regulation (EU) 2017/2226, Regulation (EU) 2018/XX [the ETIAS Regulation], Regulation (EU) 2018/XX [the Regulation on SIS in the field of border checks] and Regulation (EU) 2018/XX [the eu-LISA Regulation]].

Amendment 279

Proposal for a regulation

Article 55e – point 1

Council Decision 2008/633/JHA

Article 5 – paragraph 1a

Text proposed by the Commission

Amendment

1a. In cases where the designated authorities launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], they may access VIS for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data is stored in the VIS.

1a. In cases where the designated authorities launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], **and where the conditions for access laid down in this Article are met**, they may access VIS for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data is stored in the VIS.

Justification

Amendment tabled for consistency purposes and to ensure that the Commission's proposed two-stage test for law-enforcement access is respected.

Amendment 280

Proposal for a regulation

Article 55e – point 2

Council Decision 2008/633/JHA

Article 7

Text proposed by the Commission

1a. In cases where Europol launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], **they** may access VIS for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data is stored in the VIS.

Amendment

1a. In cases where Europol launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], **and where the conditions for access laid down in this Article are met, Europol** may access VIS for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data is stored in the VIS.

Justification

Amendment tabled for consistency purposes and to ensure that the Commission's proposed two-stage test for law-enforcement access is respected.

Amendment 281

Proposal for a regulation

Article 55f – paragraph 1 – point 14

Regulation (EU) 2018/1240

Article 52 – paragraph 1a

Text proposed by the Commission

14. In Article 52, the following paragraph is inserted:

"1a. In cases where the designated authorities launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], they may access the application files stored in the ETIAS Central System in accordance with **this** Article for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on

Amendment

14. In Article 52, the following paragraph is inserted:

"1a. In cases where the designated authorities launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], they may access the application files stored in the ETIAS Central System in accordance with **[Article 45]** for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on

interoperability] reveals that data is stored in the application files stored in the ETIAS Central System."

interoperability] reveals that data is stored in the application files stored in the ETIAS Central System."

Amendment 282

Proposal for a regulation

Article 55f – paragraph 1 – point 15

Regulation (EU) 2018/1240

Article 53 – paragraph 1a

Text proposed by the Commission

15. In Article 53, the following paragraph is inserted:

"1a. In cases where Europol launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], they may access the application files stored in the ETIAS Central System in accordance with *this* Article for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data is stored in the application files stored in the ETIAS Central System."

Amendment

15. In Article 53, the following paragraph is inserted:

"1a. In cases where Europol launched a query to the CIR in accordance with [Article 22 of Regulation 2018/XX on interoperability], they may access the application files stored in the ETIAS Central System in accordance with [Article 46] for consultation where the reply received as referred to in paragraph 3 of [Article 22 of Regulation 2018/XX on interoperability] reveals that data is stored in the application files stored in the ETIAS Central System."

Amendment 283

Proposal for a regulation

Article 55g – paragraph 1 – point 4

Regulation (EU) 2018/XXX [the Regulation on SIS in the field of border checks]

Article 8 – paragraph 4

Text proposed by the Commission

4. in Article 8 paragraph 4 is deleted.

Amendment

deleted

Amendment 284

Proposal for a regulation

Article 55g – paragraph 1 – point 7

Regulation (EU) 2018/XXX [the Regulation on SIS in the field of border checks]

Article 54 – paragraph 6

Text proposed by the Commission

7. in Article 54 paragraph 6, is replaced by the following:

"For the purpose of paragraphs 3, 4 and 5 of this Article and of Article 15(5), the Agency ***shall store data referred to in paragraph 3 of this Article and in Article 15(5) which shall not allow for the identification of individuals in the central repository for reporting and statistics*** referred to in [Article 39 of the Regulation 2018/XX on interoperability].

The Agency shall allow the Commission and the agencies referred to in paragraph 5 to obtain bespoke reports and statistics. Upon request, the Agency shall give access to Member States, the Commission, Europol, and the European Border and Coast Guard Agency ***to the central repository in accordance with [Article 39 of the Regulation 2018/XX on interoperability].***"

Amendment

7. in Article 54 paragraph 6, is replaced by the following:

"For the purpose of paragraphs 3, 4 and 5 of this Article and of Article 15(5), the Agency shall ***establish, implement and host a central repository in its technical sites containing the data referred to in paragraph 3 of this Article and in Article 15(5) which shall not allow for the identification of individuals and shall allow the Commission and the agencies referred to in paragraph 5 to obtain bespoke reports and statistics*** referred to in [Article 39 of the Regulation 2018/XX on interoperability].

The Agency shall allow the Commission and the agencies referred to in paragraph 5 to obtain bespoke reports and statistics. Upon request, the Agency shall give access to Member States, the Commission, Europol, and the European Border and Coast Guard Agency ***to the extent required for the performance of their tasks, to the central repository by means of secured access through the Communication Infrastructure with control of access and specific user profiles solely for the purpose of reporting and statistics.***"

Amendment 285

Proposal for a regulation

Article 55h – paragraph 1 – point 2

Regulation (EU) 2018/XXX [Regulation on eu-LISA]

Article 9

Text proposed by the Commission

2. ***Article 9 is replaced by the***

Amendment

deleted

following:

"Article 9

Interoperability

Where the interoperability of large-scale IT systems has been stipulated in a relevant legislative instrument the Agency shall develop the necessary actions conferred on it by those legislative instruments to enable that interoperability."

Justification

Not necessary – this is already the text agreed in the eu-LISA Regulation adopted by EP in the July plenary.

Amendment 286

Proposal for a regulation

Article 55h – paragraph 1 – point 6

Regulation (EU) 2018/XXX [Regulation on eu-LISA]

Article 23

Text proposed by the Commission

6. Article 23 ***is amended as follows:***

(a) In paragraph 1 the following point is inserted:

"(ea) Interoperability Advisory Group;"

(b) paragraph 3 is replaced by the following:

"3. Europol and Eurojust and the European Border and Coast Guard Agency may each appoint a representative to the SIS II Advisory Group. Europol may also appoint a representative to the VIS and Eurodac and EES[-ETIAS] Advisory Groups. The European Border and Coast Guard Agency may also appoint a representative to the EES[-ETIAS] Advisory Group.] [Eurojust, Europol, and the European Public Prosecutors Office] may also appoint a representative to the ECRIS-TCN system Advisory Group.] ***Europol, Eurojust and***

Amendment

6. ***In*** Article 23, paragraph 3 is replaced by the following:

"3. Europol and Eurojust and the European Border and Coast Guard Agency may each appoint a representative to the SIS II Advisory Group. Europol may also appoint a representative to the VIS and Eurodac and EES[-ETIAS] Advisory Groups. The European Border and Coast Guard Agency may also appoint a representative to the EES[-ETIAS] Advisory Group.] [Eurojust, Europol, and the European Public Prosecutors Office] may also appoint a representative to the ECRIS-TCN system

the European Border and Coast Guard Agency may each appoint a representative to the Interoperability Advisory Group."

Advisory Group.]"

Justification

This addition is unnecessary. See Article 23(1)(f) of the eu.LISA Regulation as agreed - "any other Advisory Group relating to a large-scale IT system when so provided in the relevant legislative instrument governing the development, establishment, operation and use of that large-scale IT system." If an Interoperability Advisory Group is to be set up it will be done so through this Regulation and involvement of EU JHA Agencies in that Group will be determined in this Regulation.

Amendment 287

**Proposal for a regulation
Article -56 (new)**

Text proposed by the Commission

Amendment

Article -56

Access by third country jurisdictions

With reference to Article 48 of Regulation (EU) 2016/679, Directive (EU) 2016/680, and Articles XIV and XIV bis of the General Agreement on Trade in Services, companies present in a third country jurisdiction where they may be subject to (court) orders or subpoenas by third country authorities requiring them to retrieve data from the interoperability components or different information systems made interoperable, shall be excluded from preparing, designing, developing, hosting or managing any part of an interoperability component, or processing personal data of these systems.

Amendment 288

**Proposal for a regulation
Article 56 – paragraph 1 – introductory part**

Text proposed by the Commission

Amendment

1. The duly authorised staff of the

1. The duly authorised staff of the

competent authorities of Member States, the Commission and eu-LISA shall have access to consult the following data related to the European search portal (ESP), solely for the purposes of reporting and statistics *without enabling individual* identification:

competent authorities of Member States, the Commission and eu-LISA shall have access to consult the following data related to the European search portal (ESP), solely for the purposes of reporting and statistics. *The use of these data shall not allow for the identification of a person:*

Amendment 289

Proposal for a regulation

Article 56 – paragraph 2 – introductory part

Text proposed by the Commission

2. The duly authorised staff of the competent authorities of Member States, the Commission and eu-LISA shall have access to consult the following data related to the common identity repository, solely for the purposes of reporting and statistics *without enabling individual* identification:

Amendment

2. The duly authorised staff of the competent authorities of Member States, the Commission and eu-LISA shall have access to consult the following data related to the common identity repository, solely for the purposes of reporting and statistics. *The use of these data shall not allow for the identification of a person:*

Amendment 290

Proposal for a regulation

Article 56 – paragraph 3 – introductory part

Text proposed by the Commission

3. The duly authorised staff of the competent authorities of Member States, the Commission and eu-LISA shall have access to consult the following data related to the multiple-identity detector, solely for the purposes of reporting and statistics *without enabling individual* identification:

Amendment

3. The duly authorised staff of the competent authorities of Member States, the Commission and eu-LISA shall have access to consult the following data related to the multiple-identity detector, solely for the purposes of reporting and statistics. *The use of these data shall not allow for the identification of a person:*

Amendment 291

Proposal for a regulation

Article 56 – paragraph 3 – point d a (new)

Text proposed by the Commission

Amendment

(da) the number of linkages between the various Union information systems;

Amendment 292

**Proposal for a regulation
Article 56 – paragraph 3 – point d b (new)**

Text proposed by the Commission

Amendment

(db) the period of time for which a yellow link remained in the system;

Amendment 293

**Proposal for a regulation
Article 56 – paragraph 3 – point d c (new)**

Text proposed by the Commission

Amendment

(dc) the period of time for which a red link remained in the system.

Amendment 294

**Proposal for a regulation
Article 56 – paragraph 5 a (new)**

Text proposed by the Commission

Amendment

5a. Meaningful summaries shall be made available to the Agency for Fundamental Rights in order to evaluate the impact on fundamental rights of this Regulation.

Amendment 295

**Proposal for a regulation
Article 59 – paragraph 1**

Text proposed by the Commission

1. For a period of one year following the notification by eu-LISA of the completion of the test referred to in Article 62(1)(b) regarding the **multiple-identity detector** (MID) and before the start of operations of the MID, the ETIAS Central Unit as referred to in [Article 33(a) of Regulation (EU) 2016/1624] shall be responsible for carrying out a multiple-identity detection between the data stored in **the** VIS, Eurodac **and the** SIS. The multiple-identity detections shall be carried out using only biometric data in accordance with Article 27(2) of this Regulation.

Amendment 296

Proposal for a regulation

Article 59 – paragraph 1 a (new)

Text proposed by the Commission

Amendment 297

Proposal for a regulation

Article 59 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

1. For a period of one year following the notification by eu-LISA of the completion of the test referred to in Article 62(1)(b) regarding the MID and before the start of operations of the MID, the ETIAS Central Unit as referred to in [Article 33(a) of Regulation (EU) 2016/1624] shall be responsible for carrying out a multiple-identity detection between the data stored in VIS, Eurodac, **the EES and** SIS. The multiple-identity detections shall be carried out using only biometric data in accordance with Article 27(2) of this Regulation.

Amendment

1a. Following the period referred to in paragraph 1, the Commission shall, in close cooperation with the ETIAS Central Unit, create a network of liaison officers to be hosted in the ETIAS Central Unit or single points of contact of the competent Member States' authorities for the performance of the task laid down in this Article.

Amendment

5a. Notification under Article 61(3) shall only be made once all yellow links have been verified and changed either

into a green or into a red link.

Amendment 298

Proposal for a regulation Article 59 – paragraph 6

Text proposed by the Commission

6. *eu-LISA shall assist where necessary the ETIAS Central Unit in carrying out the multiple-identity detection referred to in this Article.*

Amendment

deleted

Amendment 299

Proposal for a regulation Article 60 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *The cost incurred in connection with the establishment and operation of a central Union backup solution for each system indicated in paragraph 1, where necessary, shall be borne by the general budget of the Union.*

Amendment 300

Proposal for a regulation Article 61 – paragraph 1 – subparagraph 2

Text proposed by the Commission

A consolidated list of those authorities shall be published in the Official Journal of the European Union within a period of three months from the date on which each interoperability component commenced operations in accordance with Article 62. Where there are amendments to the list, eu-LISA shall publish an updated consolidated list once a year.

Amendment

A consolidated list of those authorities shall be published in the Official Journal of the European Union within a period of three months from the date on which each interoperability component commenced operations in accordance with Article 62. Where there are amendments to the list, eu-LISA shall publish an updated consolidated list once a year. ***The list shall include the date of notification***

for each authority listed.

Amendment 301

Proposal for a regulation

Article 62 – paragraph 1 – introductory part

Text proposed by the Commission

1. The Commission shall **decide** the date **from** which each interoperability component is to start operations, after the following conditions are met:

Amendment

1. **No later than five years after the entry into force of this Regulation**, the Commission shall **adopt a decision setting** the date **on** which each interoperability component is to start operations, after the following conditions are met:

Amendment 302

Proposal for a regulation

Article 62 – paragraph 1 – point b

Text proposed by the Commission

(b) eu-LISA has declared the successful completion of a comprehensive test of the relevant interoperability component, which is to be conducted by eu-LISA in cooperation with the Member States;

Amendment

(b) eu-LISA has declared the successful completion of a comprehensive test of the relevant interoperability component, which is to be conducted by eu-LISA in cooperation with the Member States, **the ETIAS Central Unit and Europol**;

Amendment 303

Proposal for a regulation

Article 62 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The date referred to in the first subparagraph shall be set for within 30 days from the decision of the Commission.

Amendment 304

Proposal for a regulation
Article 62 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. By way of derogation from paragraph 1, the measures referred to in Article 37 shall apply as of ... [one year after the entry into force of this Regulation].

Amendment 305

Proposal for a regulation
Article 63 – paragraph 2

Text proposed by the Commission

Amendment

2. The power to adopt delegated acts referred to in Articles 8(2) **and** 9(7) shall be conferred on the Commission for an indeterminate period of time from [the date of entry into force of this Regulation].

2. The power to adopt delegated acts referred to in Articles 8(2), 9(7), **28(5) and 39(5)** shall be conferred on the Commission for an indeterminate period of time from [the date of entry into force of this Regulation].

Amendment 306

Proposal for a regulation
Article 63 – paragraph 3

Text proposed by the Commission

Amendment

3. The delegation of power referred to in Articles 8(2) **and** 9(7) 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.

3. The delegation of power referred to in Articles 8(2), 9(7), **28(5) and 39(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.

Amendment 307

Proposal for a regulation
Article 63 – paragraph 6

Text proposed by the Commission

6. A delegated act adopted pursuant to Articles 8(2) **and** 9(7) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.

Amendment

6. A delegated act adopted pursuant to Articles 8(2), 9(7), **28(5) and 39(5)** shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.

Amendment 308

Proposal for a regulation
Article 66 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Member States and Union agencies shall organise for their staff authorised to process data from the interoperability components, appropriate training programme about data security, data quality, data protection rules and the procedures of the data processing.

Amendment 309

Proposal for a regulation
Article 66 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

Common training courses on data security, data quality, data protection rules and the procedures for data processing shall be organised at Union level at least once a year to enhance

cooperation and exchange of best practices between staff of Member States and Union bodies which are authorised to process data from the interoperability components.

Amendment 310

Proposal for a regulation Article 67 – paragraph 1

Text proposed by the Commission

The Commission shall, in close cooperation with the Member States, eu-LISA and other relevant agencies, make available a practical handbook for the implementation and management of the interoperability components. The **practical handbook** shall provide technical and operational guidelines, recommendations and best practices. The Commission shall adopt the **practical handbook in the** form of a recommendation.

Amendment

The Commission shall, in close cooperation with the Member States, eu-LISA and other relevant agencies, **update the practical handbooks made available for the EES, VIS, [ETIAS], Eurodac, SIS and [ECRIS-TCN] with information necessary and** make available a practical handbook for the implementation and management of the interoperability components. The **handbooks** shall provide technical and operational guidelines, recommendations and best practices. The Commission shall adopt the **updates in accordance with the rules and in the form laid down in the respective legal instruments. The handbook on the interoperability components shall be adopted in the** form of a recommendation.

Amendment 311

Proposal for a regulation Article 67 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The practical handbook should provide guidance to Member States on how to deal with yellow links that are the results of inconsistencies with the identity data contained in ETIAS. Such modalities should not create disproportionate burdens on persons who, without any intention to deceive the

authorities, have entered inaccurate or ambiguous data in ETIAS.

Amendment 312

Proposal for a regulation Article 68 – paragraph 1

Text proposed by the Commission

1. eu-LISA shall ensure that procedures are in place to monitor the development of the interoperability components in light of objectives relating to planning and costs and to monitor the functioning of the interoperability components in light of objectives relating to the technical output, cost-effectiveness, security and quality of service.

Amendment

1. eu-LISA shall ensure that procedures are in place to monitor the development of the interoperability components ***and the integration of the existing national infrastructure and connection to the national uniform interface*** in light of objectives relating to planning and costs and to monitor the functioning of the interoperability components in light of objectives relating to the technical output, cost-effectiveness, security and quality of service.

Amendment 313

Proposal for a regulation Article 68 – paragraph 2

Text proposed by the Commission

2. By [Six months after the entry into force of this Regulation — OPOCE, please replace with the actual date] and every six months thereafter during the development phase of the interoperability components, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of the interoperability components. ***Once the development is finalised, a report shall be submitted to the European Parliament and the Council explaining in detail how the objectives, in particular relating to planning and costs, were achieved as well as justifying any divergences.***

Amendment

2. By [Six months after the entry into force of this Regulation — OPOCE, please replace with the actual date] and every six months thereafter during the development phase of the interoperability components, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of the interoperability components. ***That report shall include an overview of the current development of costs and progress of the project, a financial impact assessment, and information on any technical problems and risks that may impact the overall costs of the system to be borne by the general budget of the Union in***

accordance with Article 60.

Amendment 314

Proposal for a regulation Article 68 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Six months after the start of the operations of each interoperability component, eu-LISA shall submit a report to the European Parliament and to the Council on the state of play of the connection by Member States to the communication infrastructure of the ESP and the CIR and the integration of the existing national systems and infrastructure with the ESP, shared BMS, the MID and the CIR.

Amendment 315

Proposal for a regulation Article 68 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. In the event of delays in the development process, the European Parliament and the Council shall be informed by eu-LISA as soon as possible of the reasons for the delays and of their impact in terms of time and finances.

Amendment 316

Proposal for a regulation Article 68 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. During the development phase of the interoperability components, the Commission shall evaluate the necessity

of further harmonisation of the national systems and infrastructure of Member States at the external borders. The Commission shall transmit the evaluation report to the European Parliament and to the Council. These evaluation reports shall include recommendations, an impact assessment and an assessment of the cost for the Union budget.

Amendment 317

Proposal for a regulation Article 68 – paragraph 3

Text proposed by the Commission

3. For the purposes of technical maintenance, eu-LISA shall have access to the necessary information relating to the data processing operations performed in the interoperability components.

Amendment

3. For the purposes of technical maintenance, eu-LISA shall have access to the necessary information relating to the data processing operations performed in the interoperability components *without having access to any personal data processed by those components. Such access shall be logged.*

Amendment 318

Proposal for a regulation Article 68 – paragraph 4

Text proposed by the Commission

4. **Four** years after the start of operations of each interoperability component and every **four** years thereafter, eu-LISA shall submit to the European Parliament, the Council and the Commission a report on the technical functioning of the interoperability components, including the security thereof.

Amendment

4. **Three** years after the start of operations of each interoperability component and every **three** years thereafter, eu-LISA shall submit to the European Parliament, the Council and the Commission a report on the **connection of Member States to the communication infrastructure of the ESP and the CIR and the integration of the existing national systems and infrastructure with the ESP, shared BMS, the MID and the CIR, as well as on the** technical functioning of the interoperability

components, including the security thereof.

Amendment 319

Proposal for a regulation

Article 68 – paragraph 5 – subparagraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) an assessment of the Member States' use of the CIR for identification;

Amendment 320

Proposal for a regulation

Article 68 – paragraph 5 – subparagraph 1 – point d b (new)

Text proposed by the Commission

Amendment

(db) an assessment to ensure that Member States are in full compliance with their obligations with respect to each Union information system;

Amendment 321

Proposal for a regulation

Article 68 – paragraph 5 – subparagraph 1 – point d c (new)

Text proposed by the Commission

Amendment

(dc) an assessment of the security of Member States' connection to the communication infrastructure of the ESP and the CIR and the security of the integration of the existing national systems and infrastructure with the ESP, shared BMS, the MID and the CIR;

Amendment 322

Proposal for a regulation

Article 68 – paragraph 5 – subparagraph 1 – point d d (new)

Text proposed by the Commission

Amendment

(dd) an assessment of queries of the CIR for law enforcement purposes;

Amendment 323

Proposal for a regulation

Article 68 – paragraph 5 – subparagraph 1 – point e a (new)

Text proposed by the Commission

Amendment

(ea) an assessment of the search of the Interpol databases via the ESP, including information on the number of hits against Interpol databases and information on any problems encountered.

Amendment 324

Proposal for a regulation

Article 68 – paragraph 8 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

While respecting the provisions of national law on the publication of sensitive information, each Member State and Europol shall prepare annual reports on the effectiveness of access to data stored in the common identity repository for law enforcement purposes, containing information and statistics on:

While respecting the provisions of national law on the publication of sensitive information *including limitations deriving from matters of national security*, each Member State and Europol shall prepare annual reports on the effectiveness of access to data stored in the common identity repository for law enforcement purposes, containing information and statistics on:

Amendment 325

Proposal for a regulation

Article 68 – paragraph 8 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

The Commission shall transmit those

reports to the European Parliament, to the Council, to the European Data Protection Supervisor and to the European Union Agency for Fundamental Rights.

EXPLANATORY STATEMENT

Background and content of the proposal

The Commission presented the proposal establishing a framework for interoperability between EU information systems (borders and visa) (COM(2017) 793) and the proposal establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration) (COM(2017) 794) accompanied by a legislative financial statement and based on an impact assessment on 12 December 2017. It follows up on, among others, the Communication of the Commission of 6 April 2016 entitled 'Stronger and Smarter Information Systems for Borders and Security' (COM(2016) 205) in which the Commission outlined the need for the EU to strengthen and improve its IT systems, data architecture and information exchange in the area of border management, law enforcement and counter-terrorism and the final report of the high-level expert group on information systems and interoperability of 11 May 2017 that concluded that it is necessary and technically feasible to work towards practical solutions for interoperability and that they can, in principle, both deliver operational gains and be established in compliance with data protection requirements.

The proposal established four interoperability components: The European Search Portal (ESP); the shared Biometric Matching Service (Shared BMS); the Common Identity Repository (CIR); and the Multiple Identity Detector (MID) and lays down provisions on the objectives of the interoperability components, their technical architecture, rules regarding the use of the components, the storing of logs, the quality of the data, rules regarding data protection, supervision and responsibilities of the various agencies and the Member States. It also contains amendments to a number of other legislative instruments.

Procedure

In order to assess the Commission's proposal and to prepare for this draft report the rapporteurs sought input from a wide range of sources. A series of meetings held at shadow level took place with the Commission's services to discuss the entire proposal in detail. In addition, various stakeholders and experts were invited to attend meetings with the shadow rapporteurs. These were the European agencies affected by or interested in the proposals (eu-LISA, Europol, Frontex, FRA), and the European Data Protection Supervisor. To complement these meetings a request for an opinion of the Fundamental Rights Agency was made and a visit to the technical site of eu-LISA in Strasbourg organised.

Position of the rapporteurs

The rapporteurs welcome the proposals by the Commission on establishing a framework for interoperability between EU information systems. EU citizens expect the European Union to deliver on effective asylum and migration management, on proper external border management and on addressing ongoing threats to internal security. The refugee crisis as well as the series of terrorist attacks over the past years has shown the urgency of enhancing relevant information sharing. Delivering on these issues is important in order to maintain public trust in the Union migration and asylum system, the Union security measures and the Union capabilities to manage the external borders.

The rapporteurs furthermore agree with the Commission that the opportunities offered by

interoperability as a measure to enhance security and the protection of the external border need to be balanced with the obligation to ensure that interferences with fundamental rights that may derive from the new interoperability environment are limited to what is strictly necessary to genuinely meet the objectives of general interest pursued, subject to the principle of proportionality. That balance is carefully reflected in the amendments proposed. The rapporteurs further believe that the interoperability components offer an opportunity to increase the protection of fundamental rights, for instance by ensuring the correct identification of *bona fide* persons and combating identity fraud.

The establishment of interoperability improves the management of the external borders by establishing fast, simple and efficient access to EU information systems. Therefore, we have to be careful not to increase the number of tasks we ask border guards to undertake. The Rapporteurs have made several proposals in order to achieve this: firstly, there shouldn't be a strict obligation for border guards to deal with a yellow flag in second line checks. It should be up to the border guard to make this decision as they are trained to detect identity fraud. Secondly, the European Search Portal (ESP) should provide answers to the border guard immediately when the underlying systems provide answers. It shouldn't wait to collect all answers from the underlying systems before presenting it to the border guard. Thirdly, emphasis should be given to properly train border guards in dealing with the manual verification system that will be introduced by this proposal.

The rapporteurs have introduced a separate article highlighting the need for all interoperability components to enable fast, seamless, efficient and controlled access using the best available technology in order to deliver response times in line with operational needs. Many daily operations of border guards, police officers, immigration officers or consular staff will depend on the correct functioning of these interoperability components. It is therefore crucial to guarantee the proper functioning of the components, but the rapporteurs find it equally important to create a backup system for especially the Common Identity Repository (CIR) and the ESP. The proper functioning of all the components as well as the underlying systems will depend on these two components, therefore a back up structure should be provided for.

The rapporteurs would like to highlight the fact that the interoperability components will not change the underlying systems, rules and procedures therein. The interoperability components should facilitate access, but access rights will not change through this proposal. Several amendments have been introduced in order to clarify this. The only changes in relation to access rights, are made in the field of law enforcement access purposes where a hit/no-hit mechanism is established. This not only optimizes the access to the underlying systems, it also makes sure that only those databases are being searched that contain relevant information. The rapporteurs amended the procedure in the proposal in order to make sure that only those law enforcement officers that are allowed to have full access to the data systems will be able to search the systems through the hit/no-hit procedure.

Furthermore the proposal allows Member States police authorities, if so empowered through national law, to use the CIR for the identification of a person during an identity check. According to the rapporteurs the procedure for identification should reflect standard practise in the Member States. Therefore, amendments have been made in order to identify the person first, following rules and procedures in national law, with identity or travel documents, before allowing the CIR to be queried with the use of biometric data of the person. The CIR may only be queried to identify a person when the person is physically present.

In order to strengthen the ability of the European Commission, the Council and the European Parliament to monitor and evaluate the functioning of this proposal, further amendments have been made to this article. Especially, with regard to the use of the CIR for the purposes of identification, for the purposes of law enforcement and the use of the Interpol database through the ESP.

20.6.2018

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Civil Liberties, Justice and Home Affairs

on the proposal for a regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (borders and visa) and amending Council Decision 2004/512/EC, Regulation (EC) No 767/2008, Council Decision 2008/633/JHA, Regulation (EU) 2016/399 and Regulation (EU) 2017/2226 (COM(2017)0793 – C8-0002/2018 – 2017/0351(COD))

Rapporteur for opinion: Bernd Kölmel

SHORT JUSTIFICATION

The rapporteur welcomes the two Commission proposals for a regulation for establishing a framework for interoperability between EU information systems adopted on 12 December 2017. Both proposals aim at overcoming structural shortcomings in the present EU information management architecture by making information systems interoperable, i.e. able to exchange data and share information. The rapporteur fully subscribes to their purpose, which is to ensure fast access to information, including by law enforcement authorities, to detect multiple identities and combat identity fraud, to facilitate identity checks of third-country nationals and to facilitate the prevention, investigation or prosecution of serious crime and terrorism.

The present opinion concerns the proposal on **borders and visa**, which aims to regulate access to the Visa Information System, the Schengen Information System as currently regulated by Regulation (EC) No 1987/2006, the Entry-Exit System (EES) and the European Travel information and Authorisation System (ETIAS).

The rapporteur agrees with the proposal to establish the following four interoperability components: a European search portal capable of querying simultaneously all relevant EU systems in the areas of security, border and migration management, a shared biometric matching service, a common identity repository and a multiple-identity detector. In addition, he welcomes the proposal to establish a central repository for reporting and statistics for the extraction of anonymous statistical data for policy, operational and data quality purposes. The total budget required to finance both proposals over nine years (2019-2027) is estimated at EUR 461million, including:

- EUR 261.3 million for eu-LISA for the development and maintenance of the interoperability components (of which EUR 23 million in 2019-2020);
- EUR 136.3 million for Member States to cover the changes to their national systems (from 2021);
- EUR 48.9 million for Europol to cover the upgrade of Europol's IT systems (of which EUR 9,1 million in 2019-2020);
- EUR 4.8 million for Frontex for the set-up phase of the multiple-identity detector (from 2021);
- EUR 2.0 million for CEPOL to deliver training to operational staff (of which EUR 100 000 in 2020);
- EUR 7.7 million for DG HOME for a limited increase of staff and related costs during the development period (of which EUR 2 million in 2019-2020), to be covered under heading 5.

The total cost of EUR 32.1 million for the years 2019 and 2020 to be borne by heading 3 is to be covered under the current ISF-Borders Regulation, where sufficient appropriations are still available. The proposed budget beyond 2020 is illustrative and does not prejudice the negotiations on the next MFF, for which the Commission adopted its proposal on 2 May 2018. The rapporteur notes with satisfaction that there are no overlaps with the budget requests under other recent legislative proposals in this area, notably ECRIS-TCN (European Criminal Records Information System for third-country nationals), the revision of SIS II, EES, ETIAS, the Eurodac recast and the revision of the founding regulation of eu-LISA. The rapporteur notes that the one-off set-up costs to Member States are estimated at EUR 85,5 million and that the Commission proposes to reimburse all integration costs incurred by Member States, in order to be able to monitor their advancement in implementing these regulations.

The rapporteur considers the estimated cost to the EU budget to be justified and proportionate, and underlines that enhanced interoperability at EU level is expected to generate cost savings of around EUR 77,5 million per year, mainly for Member States' IT departments and administrations for border management, migration and law enforcement. Nonetheless, the rapporteur urges the Commission, eu-LISA, Frontex, Europol, CEPOL and the Member States to ensure the highest degree of cost efficiency possible throughout the development and operation phases. In particular eu-LISA is urged to make every effort to avoid cost overruns and delays when defining and implementing the preferred technical solution, and to ensure optimal project staffing by reassigning staff to new tasks as earlier projects come to completion.

With regard to revenue, the rapporteur requests that the Commission provide as soon as possible detailed information on the contributions expected from Schengen-associated countries, which are to be treated as miscellaneous assigned revenue to the eu-LISA budget line (18 02 07).

Finally, the rapporteur strengthens a number of provisions on reporting and evaluation, in

order to enable the budgetary authority to follow closely the development and early functioning of the new interoperability components in view of future budgetary decisions, in particular under the post-2020 MFF.

AMENDMENTS

The Committee on Budgets calls on the Committee on Civil Liberties, Justice and Home Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a regulation

Article 60 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1 a. The cost incurred in connection with the establishment and operation of a central EU backup solution for each system indicated in paragraph 1, where necessary, shall be borne by the general budget of the Union.

Amendment 2

Proposal for a regulation

Article 60 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Costs incurred in connection with the integration of the existing national infrastructures and their connection to the national uniform interfaces as well as in connection with hosting the national uniform interfaces shall be borne by the general budget of the Union.

Costs incurred in connection with the integration of the existing national infrastructures and their connection to the national uniform interfaces as well as in connection with hosting ***and future developments of*** the national uniform interfaces shall be borne by the general budget of the Union.

Amendment 3

Proposal for a regulation

Article 60 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. *The annual appropriations shall be authorised by the European Parliament and the Council within the limits of the multiannual financial framework and within the framework of the annual budgetary procedure.*

Amendment 4

Proposal for a regulation Article 68 – paragraph 2

Text proposed by the Commission

Amendment

2. By [Six months after the entry into force of this Regulation — OPOCE, please replace with the actual date] and every six months thereafter during the development phase of the interoperability components, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of the interoperability components. ***Once the development is finalised, a report shall be submitted to the European Parliament and the Council explaining in detail how the objectives, in particular relating to planning and costs, were achieved as well as justifying any divergences.***

2. By [Six months after the entry into force of this Regulation — OPOCE, please replace with the actual date] and every six months thereafter during the development phase of the interoperability components, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of the interoperability components. ***That report shall include an overview of the current development of costs and progress of the project, a financial impact assessment, and information on any technical problems and risks that may impact the overall costs of the system to be borne by the general budget of the Union in accordance with Article 60.***

Amendment 5

Proposal for a regulation Article 68 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. *In the event of delays in the development process, the European Parliament and the Council shall be informed by eu-LISA as soon as possible of the reasons for the delays and of their*

impact in terms of time and finances.

Amendment 6

Proposal for a regulation Article 68 – paragraph 4

Text proposed by the Commission

4. **Four** years after the start of operations of each interoperability component and every **four** years thereafter, eu-LISA shall submit to the European Parliament, the Council and the Commission a report on the technical functioning of the interoperability components, including **the** security **thereof**.

Amendment

4. **Two** years after the start of operations of each interoperability component and every **two** years thereafter, eu-LISA shall submit to the European Parliament, the Council and the Commission a report on the technical functioning of the interoperability components, including **their** security **and costs**.

Amendment 7

Proposal for a regulation Article 68 – paragraph 5 – subparagraph 1 – introductory part

Text proposed by the Commission

In addition, **one year** after each report from eu-LISA, the Commission shall produce an overall evaluation of the components, including:

Amendment

In addition, **six months** after each report from eu-LISA, the Commission shall produce an overall evaluation of the components, including:

Amendment 8

Proposal for a regulation Article 68 – paragraph 5 – subparagraph 1 – point b

Text proposed by the Commission

(b) an examination of the results achieved against objectives and the impact on fundamental rights;

Amendment

(b) an examination of the results achieved against objectives and the impact on fundamental rights, **as well as the associated costs**;

Amendment 9

Proposal for a regulation

Article 68 – paragraph 5 – subparagraph 1 – point e

Text proposed by the Commission

(e) an assessment of any implications, including ***any disproportionate*** impact on the flow of traffic at border crossing points and those with a budgetary impact on the Union budget.

Amendment

(e) an assessment of any implications including ***those with an*** impact on the flow of traffic at border crossing points and those with a budgetary impact on the Union budget.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Interoperability between EU information systems (borders and visa)
References	COM(2017)0793 – C8-0002/2018 – 2017/0351(COD)
Committee responsible Date announced in plenary	LIBE 28.2.2018
Opinion by Date announced in plenary	BUDG 28.2.2018
Rapporteur Date appointed	Bernd Kölmel 25.1.2018
Discussed in committee	17.5.2018
Date adopted	19.6.2018
Result of final vote	+: 30 -: 3 0: 3
Members present for the final vote	Nedzhmi Ali, Jean Arthuis, Richard Ashworth, Gérard Deprez, Manuel dos Santos, José Manuel Fernandes, Eider Gardiazabal Rubial, Jens Geier, Iris Hoffmann, Monika Hohlmeier, John Howarth, Bernd Kölmel, Zbigniew Kuźmiuk, Vladimír Maňka, Siegfried Mureşan, Jan Olbrycht, Răzvan Popa, Petri Sarvamaa, Jordi Solé, Patricija Šulin, Isabelle Thomas, Inese Vaidere, Monika Vana, Tiemo Wölken, Marco Zanni
Substitutes present for the final vote	Anneli Jäätteenmäki, Alain Lamassoure, Janusz Lewandowski, Verónica Lope Fontagné, Andrey Novakov, Pavel Poc, Ivan Štefanec, Claudia Țapardel
Substitutes under Rule 200(2) present for the final vote	John Stuart Agnew, Martina Anderson, Auke Zijlstra

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

30	+
ALDE	Nedzhmi Ali, Jean Arthuis, Gérard Deprez, Anneli Jäätteenmäki
ECR	Bernd Kölmel, Zbigniew Kuźmiuk
PPE	Richard Ashworth, José Manuel Fernandes, Monika Hohlmeier, Alain Lamassoure, Janusz Lewandowski, Verónica Lope Fontagné, Siegfried Mureşan, Andrey Novakov, Jan Olbrycht, Petri Sarvamaa, Ivan Štefanec, Patricija Šulin, Inese Vaidere
S&D	Eider Gardiazabal Rubial, Jens Geier, Iris Hoffmann, John Howarth, Vladimír Maňka, Pavel Poc, Răzvan Popa, Manuel dos Santos, Claudia Țapardel, Isabelle Thomas, Tiemo Wölken

3	-
EFDD	John Stuart Agnew
ENF	Auke Zijlstra
GUE/NGL	Martina Anderson

3	0
ENF	Marco Zanni
VERTS/ALE	Jordi Solé, Monika Vana

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Interoperability between EU information systems (borders and visa)		
References	COM(2018)0478 – C8-0294/2018 – COM(2017)0793 – C8-0002/2018 – 2017/0351(COD)		
Date submitted to Parliament	13.6.2018		
Committee responsible Date announced in plenary	LIBE 28.2.2018		
Committees asked for opinions Date announced in plenary	AFET 28.2.2018	BUDG 28.2.2018	
Not delivering opinions Date of decision	AFET 22.2.2018		
Rapporteurs Date appointed	Jeroen Lenaers 1.2.2018		
Discussed in committee	11.6.2018	3.9.2018	15.10.2018
Date adopted	15.10.2018		
Result of final vote	+: –: 0:	45 10 0	
Members present for the final vote	Asim Ademov, Heinz K. Becker, Malin Björk, Rachida Dati, Agustín Díaz de Mera García Consuegra, Cornelia Ernst, Tanja Fajon, Laura Ferrara, Kinga Gál, Ana Gomes, Sophia in 't Veld, Eva Joly, Dietmar Köster, Barbara Kudrycka, Juan Fernando López Aguilar, Monica Macovei, Roberta Metsola, Louis Michel, Claude Moraes, Péter Niedermüller, Giancarlo Scottà, Helga Stevens, Traian Ungureanu, Bodil Valero, Marie-Christine Vergiat, Harald Vilimsky, Josef Weidenholzer, Kristina Winberg, Auke Zijlstra		
Substitutes present for the final vote	Miriam Dalli, Gérard Deprez, Anna Hedh, Lívia Járóka, Sylvia-Yvonne Kaufmann, Ska Keller, Miltiadis Kyrkos, Jean Lambert, Jeroen Lenaers, Nuno Melo, Maite Pagazaurtundúa Ruiz, Barbara Spinelli, Axel Voss		
Substitutes under Rule 200(2) present for the final vote	Pervenche Berès, Luis de Grandes Pascual, Esther de Lange, Raffaele Fitto, John Flack, Arne Gericke, Karine Gloanec Maurin, Gesine Meissner, Francisco José Millán Mon, Marijana Petir, Ulrike Rodust, Massimiliano Salini, Tibor Szanyi		
Date tabled	19.10.2018		

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

45	+
ALDE	Gérard Deprez, Gesine Meissner, Louis Michel, Maite Pagazaurtundúa Ruiz
ECR	Raffaele Fitto, John Flack, Arne Gericke, Monica Macovei, Helga Stevens, Kristina Winberg
EFDD	Laura Ferrara
ENF	Giancarlo Scottà, Harald Vilimsky
PPE	Asim Ademov, Heinz K. Becker, Rachida Dati, Agustín Díaz de Mera García Consuegra, Kinga Gál, Luis de Grandes Pascual, Livia Járóka, Barbara Kudrycka, Esther de Lange, Jeroen Lenaers, Nuno Melo, Roberta Metsola, Francisco José Millán Mon, Marijana Petir, Massimiliano Salini, Traian Ungureanu, Axel Voss
S&D	Pervenche Berès, Miriam Dalli, Tanja Fajon, Karine Gloanec Maurin, Ana Gomes, Anna Hedh, Sylvia-Yvonne Kaufmann, Dietmar Köster, Miltiadis Kyrkos, Juan Fernando López Aguilar, Claude Moraes, Péter Niedermüller, Ulrike Rodust, Tibor Szanyi, Josef Weidenholzer

10	-
ALDE	Sophia in 't Veld
ENF	Auke Zijlstra
GUE/NGL	Malin Björk, Cornelia Ernst, Barbara Spinelli, Marie-Christine Vergiat
VERTS/ALE	Eva Joly, Ska Keller, Jean Lambert, Bodil Valero

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention