



2017/0352(COD)

31.5.2018

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration) (COM(2017)0794 – C8-0003/2018 – 2017/0352(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Nuno Melo

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.

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	89

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration)
(COM(2017)0794 – C8-0003/2018 – 2017/0352(COD))**

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2017)0794),
 - having regard to Article 294(2) and Article 16(2), Article 74, point (e) of Article 78(2), point (c) of Article 79(2), point (d) of Article 82(1), Article 85(1), point (a) of Article 87(2) and Article 88(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0003/2018),
 - 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 (A8-0000/2018),
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 9

Text proposed by the Commission

(9) ***With a view*** 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,

Amendment

(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.

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, 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), 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. 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.

Or. en

Amendment 2

Proposal for a regulation Recital 10

Text proposed by the Commission

(10) The interoperability between the *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*

Amendment

(10) The interoperability between the *Union* 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 *Union* information systems, *contribute to ensuring the effective use of Union*

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].

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, strengthen, simplify and harmonise the data security and data protection safeguards that govern the respective Union information systems and streamline and simplify law enforcement access to the EES, VIS, [ETIAS] and Eurodac, and support the purposes of the EES, VIS, [ETIAS], Eurodac, SIS and [ECRIS-TCN].

Or. en

Amendment 3

Proposal for a regulation Recital 13

Text proposed by the Commission

(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 underlying systems.

Amendment

(13) The ESP should be established to facilitate technically the ability of Member State authorities and **Union agencies** to have access to the **Union** information systems, 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, 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.

(The change from 'EU bodies' to 'Union agencies' applies throughout the text. Adopting it will necessitate corresponding changes throughout.)

Or. en

Justification

New article introduced as Article 37a to reflect the necessity that all interoperability components should ensure fast, seamless, efficient, and controlled access as well as full availability in accordance with Article 53(1). This should not only concern the ESP.

Amendment 4

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

Amendment

(16) To ensure fast and systematic use of all **Union** information systems, the European search portal (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 **Union** information systems should remain in order to provide a technical fall back. The ESP 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.

Or. en

Amendment 5

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

Amendment

(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 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 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 ***Union information*** 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, 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 in one single location, facilitating cross-system comparisons using biometric data and enabling economies of scale in developing and maintaining the ***Union*** central systems.

Or. en

Amendment 6

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.***

Or. en

Amendment 7

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) ***Where a Member State police authority has been unable to identify a 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,*** 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 CIR with the biometric data of that person taken during an identity check ***in order to ensure correct identification of that person.***

Or. en

Amendment 8

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

Or. en

Amendment 9

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. 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

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 MID should only contain the links 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

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.

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.

Or. en

Amendment 10

Proposal for a regulation Recital 43 a (new)

Text proposed by the Commission

Amendment

(43 a) 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.

Or. en

Amendment 11

Proposal for a regulation Recital 52

Text proposed by the Commission

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 ... "

(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**

Amendment 12

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 13

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

1. This Regulation, together with [Regulation 2018/xx on interoperability borders and visa], 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 borders and visa], 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)].

Justification

The last part of this paragraph as suggested by the Commission is neither clear in its intention nor does it seem to be necessary. It is therefore better to delete it.

Amendment 14

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.

Or. en

Amendment 15

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*

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.

under their competence.

Or. en

Amendment 16

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

Text proposed by the Commission

Amendment

4 a. This Regulation also enables the verification of different identities of a person stored in the Union information systems subject to this Regulation and of identities uncovered by the interoperability components set out in paragraph 2. This Regulation also provides the possibility for Member States to use national legislative measures to empower police authorities to query the CIR solely for the purpose of identifying a person.

Or. en

Amendment 17

Proposal for a regulation Article 2 – title

Text proposed by the Commission

Amendment

Objectives *of interoperability*

Objectives

Or. en

Amendment 18

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*;

Or. en

Amendment 19

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 and harmonising *the* quality of the *data stored in the Union* information systems;

Or. en

Amendment 20

Proposal for a regulation

Article 2 – paragraph 2 – point d

Text proposed by the Commission

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

Amendment

(d) *contributing to ensuring the effective use of the Union* information systems, *Europol data and the Interpol databases by facilitating the 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*;

Or. en

Amendment 21

Proposal for a regulation

Article 2 – paragraph 2 – point f

Text proposed by the Commission

(f) streamlining the conditions for law enforcement access to the EES, *the* VIS, [*the* ETIAS] and Eurodac;

Amendment

(f) streamlining *and simplifying* the conditions for law enforcement access to the EES, VIS, [ETIAS] and Eurodac;

Or. en

Amendment 22

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*;

Or. en

Justification

It is suggested to align the definition to the definition used in EES.

Amendment 23

Proposal for a regulation

Article 4 – paragraph 1 – point 10

Text proposed by the Commission

(10) ‘*fingerprint* data’ means *the data relating to the fingerprints of an individual*;

Amendment

(10) ‘*dactyloscopic* data’ means *data on fingerprints and palm prints which due to their unique character and the reference points contained therein enable accurate and conclusive comparisons to identify a person*;

Amendment 24

Proposal for a regulation

Article 4 – paragraph 1 – point 18

Text proposed by the Commission

(18) ‘**EU** information systems’ means the *large-scale IT systems* managed by eu-LISA;

Amendment

(18) ‘**Union** information systems’ means the *EES, VIS, [ETIAS], Eurodac, SIS and [ECRIS-TCN]* managed by eu-LISA;

Or. en

Amendment 25

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) *to (c)* of Regulation (EU) 2016/794;

Or. en

Amendment 26

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

(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;*

Justification

It is suggested to spell out that the notion of “equivalent” applies only to those countries which are not bound by the terrorism directive.

Amendment 27

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

(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];

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

Justification

Corrects a mistake.

Amendment 28

Proposal for a regulation

Article 4 – paragraph 1 – point 33

Text proposed by the Commission

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

Amendment

deleted

Justification

This is no definition but an explanation of an abbreviation. The abbreviations are introduced

and explained in Article 1.

Amendment 29

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**

Or. en

Justification

This is no definition but an explanation of an abbreviation. The abbreviations are introduced and explained in Article 1.

Amendment 30

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**

Or. en

Justification

This is no definition but an explanation of an abbreviation. The abbreviations are introduced and explained in Article 1.

Amendment 31

Proposal for a regulation

Article 4 – paragraph 1 – point 36

Text proposed by the Commission

Amendment

(36) 'MID' means the multiple-identity **deleted**

detector as referred to in Article 25;

Or. en

Justification

This is no definition but an explanation of an abbreviation. The abbreviations are introduced and explained in Article 1.

Amendment 32

**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*

Or. en

Justification

This is no definition but an explanation of an abbreviation. The abbreviations are introduced and explained in Article 1.

Amendment 33

**Proposal for a regulation
Article 5 – title**

Text proposed by the Commission

Amendment

Non-discrimination

Non-discrimination *and fundamental rights*

Or. en

Amendment 34

**Proposal for a regulation
Article 5 – paragraph 1**

Text proposed by the Commission

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.

Amendment

Processing of personal data for the purposes of this Regulation shall not result in discrimination against persons on ***the*** grounds ***of 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. ***The best interests of the child shall be a primary consideration.***

Or. en

Justification

It is suggested to align the Article with the agreement reached on ETIAS and thereby aligning with the grounds as provided in Article 21 of the Charter.

Amendment 35

Proposal for a regulation
Article 6 – paragraph 1

Text proposed by the Commission

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.

Amendment

1. A European search portal (ESP) is established for the purposes of ***facilitating the access of*** Member State authorities and ***of Union agencies*** to the ***Union*** information systems, ***to*** Europol data and ***to*** the Interpol databases ***in the performance of*** their tasks ***and*** in accordance with their access rights ***to*** and the objectives ***and purposes*** of the EES, VIS, [ETIAS], Eurodac, SIS, [ECRIS-TCN] and Europol data.

Justification

New article introduced as Article 37a to reflect the necessity that all interoperability components (not only the ESP) should ensure fast, seamless, efficient, and controlled access as well as full availability in accordance with article 53(1).

Amendment 36**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;

Or. en

Justification

The reference to Union law is covered in paragraph 1. It does not belong in the paragraph describing the IT architecture. Also the term “Union law” is not precise enough.

Amendment 37**Proposal for a regulation****Article 6 – paragraph 2 – point c a (new)**

Text proposed by the Commission

Amendment

(c a) 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. The ESP and the backup ESP shall be located in the technical sites of eu-LISA.

Or. en

Amendment 38

Proposal for a regulation

Article 7 – paragraph 1

Text proposed by the Commission

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 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.

Amendment

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 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.

Or. en

Justification

It is important to be very precise as to the legal basis for the access to the various systems.

Amendment 39

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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.

Or. en

Amendment 40

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

Text proposed by the Commission

(a) the fields of data to be used for querying;

Amendment

(a) the fields of data **possibly** to be used for querying;

Or. en

Amendment 41

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 elements of those systems that may be queried** 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;**

Or. en

Amendment 42

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)

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.

in accordance with their access rights *as laid down in the legal instruments governing Union information systems and national law where applicable.*

Or. en

Amendment 43

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

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

Or. en

Amendment 44

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, the 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 under Union law 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 belong.

Or. en

Amendment 45

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.*

Or. en

Amendment 46

Proposal for a regulation Article 9 – paragraph 6

Text proposed by the Commission

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.*

Amendment

deleted

Or. en

Amendment 47

Proposal for a regulation

Article 10 – paragraph 1 – introductory part

Text proposed by the Commission

1. Without prejudice to [Article 39 of the Eurodac Regulation], [Articles 12 and 18 of the Regulation on SIS in the field of law enforcement], [Article 29 of the ECRIS-TCN Regulation] and Article 40 of Regulation (EU) 2016/794, eu-LISA shall keep logs of all data processing operations within the ESP. Those logs shall include, ***in particular***, the following:

Amendment

1. Without prejudice to [Article 39 of the Eurodac Regulation], [Articles 12 and 18 of the Regulation on SIS in the field of law enforcement], [Article 29 of the ECRIS-TCN Regulation] and Article 40 of Regulation (EU) 2016/794, eu-LISA shall keep logs of all data processing operations within the ESP. Those logs shall include the following:

Or. en

Justification

The legal acts of the information systems in their respective provisions on logs do not have the wording “in particular” which is very vague.

Amendment 48

Proposal for a regulation

Article 10 – paragraph 1 – point a

Text proposed by the Commission

(a) the Member State authority ***and the individual user of the ESP, including the ESP profile used as referred to in Article 8;***

Amendment

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

Or. en

Amendment 49

Proposal for a regulation

Article 10 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) ESP profile used as referred to in Article 8;

Or. en

Amendment 50

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

Text proposed by the Commission

Amendment

(d) 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

Or. en

Amendment 51

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

Text proposed by the Commission

Amendment

In addition, Member States and Union agencies shall keep logs of the individual and unique user identifiers of the person performing the query.

Or. en

Amendment 52

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 is technically impossible to use the ESP to query one or several **Union** information systems or the CIR, because of a failure of the ESP, the users of the ESP shall be notified *without delay* by eu-LISA.

Or. en

Amendment 53

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 *without delay inform all its users and* notify eu-LISA and the Commission.

Or. en

Amendment 54

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, 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 directly using their respective national uniform interfaces or national communication infrastructures.

Amendment 55

Proposal for a regulation Article 11 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. *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.*

Or. en

Amendment 56

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 several **Union** information systems 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] **and Regulation (EU) 2016/794**.

Or. en

Amendment 57

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

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 58

Proposal for a regulation

Article 13 – paragraph 1 – point d

Text proposed by the Commission

Amendment

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

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

Or. en

Justification

Corrects a mistake. It was not the intention to process DNA data.

Amendment 59

Proposal for a regulation

Article 13 – paragraph 1 – point f

Text proposed by the Commission

Amendment

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

(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;]

Or. en

Amendment 60

Proposal for a regulation

Article 13 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(ga) the biometric data processed by Europol for the purposes referred to in Article 18(2),(a) to (c) of Regulation (EU) 2016/794.

Or. en

Amendment 61

Proposal for a regulation

Article 13 – paragraph 4

Text proposed by the Commission

Amendment

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

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

Or. en

Justification

It is better to refer to the entire Article 37 and not just paragraph 2 as there are several data control mechanisms referred to in Article 37.

Amendment 62

Proposal for a regulation

Article 14 – paragraph 1

Text proposed by the Commission

Amendment

In order to search the biometric data stored within the CIR and *the* SIS, the CIR and *the* SIS shall use the biometric templates stored in the shared BMS. Queries with biometric data shall take place in accordance with the purposes provided for in this Regulation and in the EES

In order to search the biometric data stored within the CIR and SIS, the CIR, *SIS and Europol data*, shall use the biometric templates stored in the shared BMS. Queries with biometric data shall take place in accordance with the purposes provided for in *Article 12(1)* of this

Regulation, the VIS Regulation, the Eurodac Regulation, the [SIS Regulations] and [the ECRIS-TCN Regulation].

Regulation and in the EES Regulation, the VIS Regulation, the Eurodac Regulation, the [SIS Regulations] and [the ECRIS-TCN Regulation].

Or. en

Justification

To ensure legal certainty it is important to refer to the purpose as established in Article 12 and not to the Regulation in general.

Amendment 63

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 Article 19, SIS or as Europol data.*

Or. en

Amendment 64

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

Text proposed by the Commission

1. Without prejudice to [Article 39 of the Eurodac Regulation], [Article 12 and 18 of the Regulation on SIS in the field of law enforcement] and [Article 29 of the ECRIS-TCN Regulation], 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 39 of the Eurodac Regulation], [Article 12 and 18 of the Regulation on SIS in the field of law enforcement] and [Article 29 of the ECRIS-TCN Regulation], eu-LISA shall keep logs of all data processing operations within the shared BMS. Those logs shall include the following:

Or. en

Justification

The legal acts of the information systems in their respective provisions on logs do not have the wording “in particular” which is very vague. The reference should be to the SIS border checks text and not the SIS in the field of law enforcement. Corrects a mistake.

Amendment 65

Proposal for a regulation

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

Text proposed by the Commission

Amendment

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

Or. en

Amendment 66

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;***

Or. en

Amendment 67

Proposal for a regulation

Article 16 – paragraph 1 – point g

Text proposed by the Commission

Amendment

(g) ***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 68

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 individual and unique user identifiers of the person performing the query.

Or. en

Amendment 69

Proposal for a regulation

Article 17 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(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;

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

Or. en

Justification

The reference to the CIR corrects a mistake in the Commission's proposal.

Amendment 70

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.

Or. en

Amendment 71

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

Text proposed by the Commission

(d) [the data referred to in Article 13(a) to (e), (g) and (h) of the [Eurodac Regulation;]

Amendment

(d) [the data referred to in **Article 12(a) to (e), (g) and (h)**, Article 13(a) to (e), (g) and (h) **and Article 14(a) to (e), (g) and (h)** of the [Eurodac Regulation;]

Or. en

Amendment 72

Proposal for a regulation Article 19 – paragraph 1

Text proposed by the Commission

1. Where data is added, amended or deleted in Eurodac or [**the** ECRIS-TCN **system**], 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.

Amendment

1. **Without duplicating the data from the respective Union information systems**, where data is added, amended or deleted in Eurodac or [ECRIS-TCN], 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.

Or. en

Amendment 73

Proposal for a regulation Article 20 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. *Where a Member State police authority was unable to identify a person on the basis of a travel document or with the identity data provided by that person following rules and procedures provided for in national law or where there are doubts as to the authenticity of the travel document or the identity of its holder, the authority shall be able to query the CIR in accordance with the rules provided for in paragraphs 1 and 2.*

Or. en

Amendment 74

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 and* 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 *who is physically present*, query the CIR with the biometric data of that person taken during an identity check.

Or. en

Amendment 75

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.***

Or. en

Amendment 76

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

Or. en

Amendment 77

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***

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 identity checks within the purposes referred to in Article 2(2)(b) and lay down the procedures, conditions and criteria ***for***

competent and lay down the procedures, conditions and criteria of such checks.

such checks. *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.*

Or. en

Justification

The procedures, conditions and criteria for such checks using EU information systems should be laid down in legislation. The text of this legislation should be transmitted to the Commission to ensure some degree of transparency about the use of these provisions.

Amendment 78

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 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.

Or. en

Amendment 79

Proposal for a regulation

Article 23 – paragraph 1

Text proposed by the Commission

Amendment

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 Eurodac Regulation] and [the ECRIS-TCN Regulation] respectively.

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 Eurodac Regulation] and [the ECRIS-TCN Regulation] respectively.

Amendment 80

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 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.***

Or. en

Amendment 81

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:

Or. en

Amendment 82

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;*

Or. en

Amendment 83

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;***

Or. en

Amendment 84

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

Or. en

Amendment 85

Proposal for a regulation

Article 24 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

In addition, Member States shall keep logs of the individual and unique user identifiers of the person performing the query.

Or. en

Amendment 86

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:

Or. en

Amendment 87

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;

Or. en

Amendment 88

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;

Or. en

Amendment 89

Proposal for a regulation

Article 24 – paragraph 3 – point d

Text proposed by the Commission

Amendment

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

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

Or. en

Amendment 90

Proposal for a regulation

Article 24 – paragraph 3 – 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

Or. en

Amendment 91

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 individual and unique user identifiers of the person performing the query.

Or. en

Amendment 92

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

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 the following:

Or. en

Amendment 93

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 national file reference;

Or. en

Amendment 94

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;

Or. en

Amendment 95

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;***

Or. en

Amendment 96

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

Or. en

Amendment 97

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 individual and unique user identifiers of the person performing the query.

Or. en

Amendment 98

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 ease and automate as far as possible the verification of the logs.***

Or. en

Amendment 99

Proposal for a regulation

Article 24 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 100

Proposal for a regulation Article 24 – paragraph 7

Text proposed by the Commission

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.

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 **automatically** once the data is erased.

Or. en

Amendment 101

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* [Regulation on SIS in the field of law enforcement or Regulation on SIS in the field of *illegal* return];

Amendment

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

Or. en

Amendment 102

Proposal for a regulation Article 27 – paragraph 1 – point d

Text proposed by the Commission

(d) [***an application for international protection*** is created or updated in Eurodac in accordance with Article 10 of the Eurodac Regulation];

Amendment

(d) [***a record*** is created or updated in Eurodac in accordance with Article 10, **13 and 14** of the Eurodac Regulation];

Amendment 103

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.

Or. en

Amendment 104

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

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

Or. en

Amendment 105

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.

Or. en

Amendment 106

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 identity has taken place.

Or. en

Amendment 107

Proposal for a regulation Article 31 – paragraph 1

Text proposed by the Commission

Amendment

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.

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 or similar biometric data and the authority responsible for the verification of

different identities has concluded that it refers to two different persons.

Or. en

Amendment 108

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 and 13 of Directive (EU) 2016/680.*

Or. en

Amendment 109

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.

Or. en

Amendment 110

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:

Or. en

Justification

The legal acts of the information systems in their respective provisions on logs do not have the wording “in particular” which is very vague.

Amendment 111

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;

Or. en

Amendment 112

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

Or. en

Amendment 113

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 individual and unique user identifiers of the person performing the query.

Or. en

Amendment 114

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 SIS, Eurodac, [ECRIS-TCN], 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 systems has received prior training on data quality.

Or. en

Justification

The High-level expert group recommended data quality reporting processes and relevant training modules on data quality for staff responsible for feeding the systems at national level.

Amendment 115

Proposal for a regulation

Article 37 – paragraph 1

Text proposed by the Commission

1. eu-LISA shall establish automated data quality control mechanisms and procedures on the data stored in *the* SIS, Eurodac, [*the* ECRIS-TCN system], the *shared biometric matching service* (shared BMS), the *common identity repository* (CIR) *and the multiple-identity detector* (MID).

Amendment

1. eu-LISA shall establish automated data quality control mechanisms and procedures on the data stored in SIS, Eurodac, [ECRIS-TCN], the shared BMS *and* the CIR.

Or. en

Amendment 116

Proposal for a regulation

Article 37 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Only data fulfilling the minimum quality standards may be entered in SIS, Eurodac, [ECRIS-TCN], the shared BMS, the CIR and the MID.

Amendment

Or. en

Amendment 117

Proposal for a regulation

Article 37 – paragraph 2 – subparagraph 1 b (new)

Text proposed by the Commission

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

Amendment

Or. en

Amendment 118

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

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. ***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.***

Or. en

Amendment 119

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.

Or. en

Amendment 120

Proposal for a regulation Article 38 – paragraph 2

Text proposed by the Commission

2. The UMF standard shall be used in the development of *the* [Eurodac], *the* [ECRIS-TCN system], 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.

Amendment

2. The UMF standard shall be used in the development of the [Eurodac], [ECRIS-TCN], 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.

Or. en

Amendment 121

Proposal for a regulation Article 38 – paragraph 3

Text proposed by the Commission

3. *The implementation of the UMF standard may be considered in the SIS and in any existing or new cross-border information exchange models and information systems in the area of Justice and Home Affairs, developed by Member States or associated countries.*

Amendment

deleted

Or. en

Justification

The provision is without legal value and as such doesnot belong in the body of a Regulation. It is rather suggested to move this to a recital.

Amendment 122

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 Eurodac, *the* SIS and [*the* ECRIS-TCN *system*] 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 Eurodac, SIS and [ECRIS-TCN] and to *provide* cross-system statistical data and analytical reporting for policy, operational and data quality purposes.

Or. en

Justification

The use of the term “generate” could be misunderstood as implying that there is some kind of further processing.

Amendment 123

**Proposal for a regulation
Article 39 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. *Europol may access data contained in the CRRS for the performance of its tasks referred to in Article 4 of Regulation (EU) 2016/794.*

Or. en

Amendment 124

**Proposal for a regulation
Article 39 – paragraph 2 b (new)**

Text proposed by the Commission

Amendment

2b. *The European Border and Coast Guard Agency may access data contained in the CRRS for the performance of its tasks referred to in Article 8 of Regulation (EU) 2016/1624.*

Amendment 125

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 and shall record such anonymous data in the CRRS. The process for rendering the data anonymous shall be automated. ***No direct access by eu-LISA staff shall be granted to any personal data stored in the Union information systems or in the interoperability components.***

Or. en

Justification

The provision as regards eu-LISA staff is contained in recital 47 as proposed by the Commission. Given the legally non-binding nature of recitals it should be included in an Article.

Amendment 126

Proposal for a regulation Article 39 – paragraph 3 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Justification

This part is added as an important safeguard.

Amendment 127

Proposal for a regulation

Article 39 – paragraph 4 – point a

Text proposed by the Commission

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

Amendment

(a) a central infrastructure, consisting of a data repository **and a mechanism for** enabling the rendering of anonymous data **to be stored in that repository**;

Or. en

Amendment 128

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;

Or. en

Justification

Corrects a mistake. In Regulation 45/2001 Article 2(d) defines the “controller”.

Amendment 129

Proposal for a regulation

Article 40 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3 a. In relation to information security management of the interoperability components eu-LISA shall be considered a data controller in accordance with

Justification

Alignment to ETIAS text.

Amendment 130

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

Amendment

In relation to the processing of personal data in the **shared BMS, the CIR and the 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 131

**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, [the ETIAS Central Unit], **Europol** and the Member State authorities shall cooperate on security-related tasks.

Justification

Also Europol is processing data and should therefore be referred to in this Article. The wording “pursuant to the application of this Regulation” is unclear.

Amendment 132

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;

Or. en

Justification

Alignment with EES Article 43.

Amendment 133

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;

Or. en

Justification

Alignment with EES Article 43.

Amendment 134

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 an interruption, installed systems can be restored to normal operation;

Or. en

Justification

Alignment with EES Article 43.

Amendment 135

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.

Or. en

Justification

Alignment with EES Article 43.

Amendment 136

Proposal for a regulation

Article 42 – paragraph 4

Text proposed by the Commission

Amendment

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.

4. Member States, ***Europol and the ETIAS Central Unit*** 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 137

Proposal for a regulation

Article 43 – title

Text proposed by the Commission

Amendment

Confidentiality of *SIS* data

Confidentiality of data

Or. en

Justification

It is not clear why the obligations as regards confidentiality of data should be limited to SIS data.

Amendment 138

Proposal for a regulation

Article 43 – paragraph 1

Text proposed by the Commission

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 *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 the activities of those bodies.

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.

Or. en

Amendment 139

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.

Or. en

Amendment 140

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

Text proposed by the Commission

Amendment

2 a. 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, including in particular security, confidentiality and data protection.

Or. en

Amendment 141

**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 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.

Or. en

Amendment 142

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.

Or. en

Amendment 143

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).

Or. en

Justification

It is suggested to align the text to the ETIAS text.

Amendment 144

**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

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.

Or. en

Amendment 145

**Proposal for a regulation
Article 45 a (new)**

Text proposed by the Commission

Amendment

Article 45a

Penalties

Member States shall lay down the rules on penalties applicable to infringements of this Regulation and shall take all measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

Or. en

Amendment 146

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;

(b) any person or Member State that has suffered material or non-material damage as a result of any act by eu-LISA incompatible with this Regulation shall be entitled to receive compensation from eu-LISA. eu-LISA shall also be liable for unlawful personal data processing operations in accordance with its role as processor or, where applicable, controller.

The Member State concerned or eu-LISA shall be exempted from their liability, 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.

Or. en

Amendment 147

Proposal for a regulation Article 46 – paragraph 1

Text proposed by the Commission

*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***

Amendment

*1. **The authority collecting the data of persons whose data are stored in the shared biometric matching service, the common identity repository or the multiple-identity detector shall provide them with the information required under Articles 11 and 12 of Regulation (EC) 45/2001 and Articles 12, 13 and 14 of Regulation (EU) 2016/679 in the manner required by those provisions. The authority shall provide the information at the time such persons' data are collected.***

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.

Or. en

Amendment 148

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

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 *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 *to any other* Member State, who shall examine and reply to the request.

Or. en

Amendment 149

Proposal for a regulation Article 47 – paragraph 2

Text proposed by the Commission

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.

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 *as soon as possible, and at the latest* within

45 days of receipt of the request.

Or. en

Amendment 150

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 within seven days and the Member State responsible shall check the accuracy of the data and the lawfulness of the data processing ***as soon as possible, and at the latest*** within 30 days of such contact.

Or. en

Amendment 151

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*** the 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.

Or. en

Amendment 152

Proposal for a regulation

Article 47 – paragraph 5

Text proposed by the Commission

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.

Amendment

5. Where data in ***the CIR, the shared BMS or*** 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.

Or. en

Amendment 153

Proposal for a regulation

Article 47 – paragraph 6

Text proposed by the Commission

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.

Amendment

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 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 154**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 in paragraph 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**.

Or. en

Amendment 155**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.

Amendment

Without prejudice to [Article 38 of the Eurodac Regulation] and the querying of Interpol databases through the ESP in accordance with Article 9(5) of this Regulation 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. ***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.***

Or. en

Justification

Reference should be made to the provisions providing for data transfers from the respective IT systems. In addition, reference should be made to the only new provision on transfers in this Regulation, i.e. the querying of Interpol data through the ESP.

Amendment 156

**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.

Or. en

Amendment 157

**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.

Or. en

Amendment 158

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

Text proposed by the Commission

Amendment

-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.

Or. en

Amendment 159

Proposal for a regulation Article 49 – paragraph 1

Text proposed by the Commission

Amendment

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.

1. The supervisory authority or authorities ***referred to in*** Article 51(1) 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. ***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 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).

Or. en

Amendment 160

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 to fulfil the tasks entrusted to it under this Regulation *and has access to advice from persons with sufficient knowledge of biometric data.*

Or. en

Amendment 161

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

Text proposed by the Commission

Amendment

2 a. 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 it access at all times to all their premises used for interoperability purposes.

Or. en

Amendment 162

Proposal for a regulation Article 50 – paragraph -1 (new)

Text proposed by the Commission

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 and with this Regulation.

Or. en

Amendment 163

Proposal for a regulation Article 50 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

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

Or. en

Amendment 164

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.

Or. en

Amendment 165

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.***

Justification

This paragraph is the only instance in the proposal where the Commission refers to the proposal for revision of Regulation 45/2001 while in the rest of the Regulation it refers to the Regulation in force. As the new Regulation is not yet adopted, it seems more appropriate to maintain the provision as in the IT systems.

Amendment 166**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.

Or. en

Amendment 167**Proposal for a regulation****Article 51 – paragraph 2 b (new)***Text proposed by the Commission**Amendment*

2 b. 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.

Or. en

Amendment 168

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)**.

Or. en

Amendment 169

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**.

Or. en

Justification

Necessary addition due to Article 39(2).

Amendment 170

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 project coordination.

Amendment

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

Or. en

Amendment 171

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 evolutions***. 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.

Or. en

Amendment 172

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 central infrastructures in accordance with the technical specifications.

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.

Or. en

Amendment 173

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 the 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.

Or. en

Amendment 174

Proposal for a regulation Article 54a – paragraph 1

Text proposed by the Commission

1. Europol shall ensure processing of the queries by the ESP to the Europol data and shall accordingly adapt its Querying Europol Systems (QUEST) interface for basic protection level (BPL) data.

Amendment

1. Europol shall ensure processing of the queries by the ESP **and the shared BMS** to the Europol data and shall accordingly adapt its Querying Europol Systems (QUEST) interface for basic protection level (BPL) data.

Or. en

Amendment 175

Proposal for a regulation Article 54a – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Any data processing by Europol under this Regulation shall be subject to Regulation (EU) 2016/794.

Or. en

Amendment 176

Proposal for a regulation Article 56 – paragraph 2 – point b

Text proposed by the Commission

(b) nationality, sex and year of birth of the person;

Amendment

(b) nationality, sex and year of birth of the person; ***The use of these data shall not allow for the identification of a person;***

Or. en

Amendment 177

Proposal for a regulation Article 56 – paragraph 3 – point a

Text proposed by the Commission

(a) nationality, sex and year of birth of the person;

Amendment

(a) nationality, sex and year of birth of the person; ***The use of these data shall not allow for the identification of a person;***

Or. en

Amendment 178

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;

Or. en

Amendment 179

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;

Or. en

Amendment 180

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.

Or. en

Amendment 181

Proposal for a regulation Article 59 – paragraph 1

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 **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.

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.

Or. en

Amendment 182

Proposal for a regulation Article 59 – paragraph 3

Text proposed by the Commission

Amendment

3. Where a yellow link is created **in accordance with paragraph 3**, the MID shall grant access to the identity data present in the different information systems to the ETIAS Central Unit.

3. Where a yellow link is created, the MID shall grant access to the identity data present in the different information systems to the ETIAS Central Unit.

Amendment 183

Proposal for a regulation
Article 59 – paragraph 5 a (new)

Text proposed by the Commission

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.*

Or. en

Amendment 184

Proposal for a regulation
Article 59 – paragraph 6

Text proposed by the Commission

Amendment

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

deleted

Or. en

Justification

As eu-LISA has no access to data it cannot assist in carrying out the multiple identity detection.

Amendment 185

Proposal for a regulation
Article 62 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) eu-LISA has declared the successful completion of a comprehensive

(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;

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*;

Or. en

Amendment 186

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 to the rules and in the form as laid down in the respective legal instruments. The handbook on the interoperability components shall be adopted in the* form of a recommendation.

Or. en

Amendment 187

Proposal for a regulation Article 68 – paragraph 4

Text proposed by the Commission

4. *Four* years after the start of operations of each interoperability

Amendment

4. *Three* 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.

component and every **three** 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.

Or. en

Amendment 188

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;

Or. en

Amendment 189

Proposal for a regulation

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

Text proposed by the Commission

Amendment

(db) an assessment of queries of the CID for law enforcement purposes;

Or. en

Amendment 190

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.

Or. en

Justification

There have been reports about the misuse of Interpol alerts for political reasons by certain third countries. It is therefore important to monitor the use of the Interpol databases by EU systems. The amendment follows a similar amendment agreed in the ETIAS Regulation.

Amendment 191

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

Or. en

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 the cascade procedure is replaced by a hit/no-hit mechanism. 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.