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NOTE

From:	Presidency
To:	JHA Counsellors/Mixed Committee (EU-Iceland/Liechtenstein/Norway/Switzerland)
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES) to register entry and exit data and refusal of, entry data of third country nationals crossing the external borders of Member States of the European Union and determining the conditions for access to the EES for law enforcement purposes and amending Regulation (EC) No 767/2008 and Regulation (EU) No 1077/2011 - Articles 25a and 25b

With a view to the meeting of the JHA Counsellors on 16 June 2017, delegations will find enclosed a revised version of the compromise proposal on Art. 25a on Access to data for examining the application for international protection, as well as the text of Art. 25b on Access to data for determining the responsibility for asylum applications, as it appears in the Council mandate.

Article 25aAccess to data for examining the application for international protection

1. Where there are ~~substantiated grounds to believe that~~ **apparent inconsistencies** in the relevant statements and documentation, ~~as well as~~ **or in** the individual position and personal circumstances as presented by the applicant during the procedure concerning the examination of the application for international protection ~~are inconsistent, and where it can be reasonably objectively expected that access to the EES will allow to verify~~ **clarify** those inconsistencies, ~~For the sole purpose of facilitation of examining an application for international protection, the determining authorities shall have access to search the EES with the data referred to in Article 14(1) and 15 (1) (a), (b),(c) in order to verify~~ **clarify** those statements **or circumstances**.
2. If the search with the data listed in paragraph 1 indicates that the data of the third country national is recorded in the EES, the competent determining authorities shall be given access to consult the data referred to in Article 14(1), (2), (3)(a), (3)(b) and (4) as well as in Article 15(1)(a), (b), (c), and (1a) for the sole purpose referred to in paragraph 1.

Addition in Article 44(1)

Information of the fact that the EES data may be accessed by determining authorities in the context of the examination of an application for international protection, in order to clarify the statements or circumstances related to that application.

[Art. 25b

Access to data for determining the responsibility for asylum applications

1. For the sole purpose of determining the Member State responsible for an application for international protection, the competent authorities referred to in Article 35(1) of Regulation (EU) 604/2013 shall have access to search in the EES with the data referred to in Art. 14(1) and Art. 15(1)(a), (b) and (c).
 2. If the search with the data listed in paragraph 1 indicates that the data of a third country national is recorded in the EES, the competent authority of the respective Member State referred to in Article 35(1) of Regulation (EU) 604/2013 shall be given access to consult the data referred to in Article 14(1), (2)(a) and (2)(b) as well as in Article 15(1)(a), (b) and (c), for the sole purpose referred to in paragraph 1.]
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