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From:	Presidency
To:	Permanent Representatives Committee
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Subject:	Proposal for a Regulation of the European Parliament and of the Council introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817 – Analysis of the final compromise text with a view to agreement

I. INTRODUCTION

1. On 28 September 2020, the Commission submitted to the Council and the European Parliament a proposal for a Regulation of the European Parliament and of the Council introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, which aims to ensure that the identity of the persons but also any health and security risks are quickly established and that all third-country nationals entering the EU without fulfilling the entry conditions are swiftly referred to the correct procedure applicable to them.
2. The draft Regulation is based on Article 77(2), points (b) and (d) of the Treaty on the Functioning of the European Union (TFEU) (ordinary legislative procedure).

3. At its meeting on 22 June 2022, the Permanent Representatives Committee granted the Presidency a mandate to enter into negotiations with the European Parliament.
4. On 20 December 2023, a broad political agreement was reached between the Spanish Presidency and the rapporteur. Following further drafting this resulted in the final compromise text as set out in the annex to this note.
5. The cross-references to other legal instruments of the Pact are still subject to verification by the lawyer-linguists.

II. CONCLUSION

6. The Permanent Representatives Committee is therefore invited to:
 - (a) analyse the agreement on the final compromise text as set out in the annex to this note with a view to reaching an agreement at first reading with the European Parliament;
 - (b) authorise the Chair of the Permanent Representatives Committee to send a letter to inform the Chair of the European Parliament's Civil Liberties, Justice and Home Affairs Committee that, should the European Parliament adopt its position at first reading on the text of the proposal in the exact form as set out in the Addendum to this note, and subject to revision of that text by the lawyer-linguists of both institutions, the Council will approve the European Parliament's position and the act will be adopted in the wording which corresponds to the European Parliament's position.

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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular points (b) and (d) of Article 77(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Schengen area was created to achieve an area without internal borders in which the free movement of persons is ensured, as set out in Article 3(2) of the Treaty on European Union (TEU). The good functioning of this area relies on mutual trust between the Member States and efficient management of the external border.
- (2) The rules governing border control of persons crossing the external borders of the Member States of the Union are laid down in Regulation (EU) 2016/399 of the European Parliament and of the Council (Schengen Borders Code)¹ as adopted under Article 77(2)(b) of the Treaty on the Functioning of the European Union (TFEU). **Despite the applied border surveillance measures, Member States could be faced with unauthorised border crossings by third country nationals avoiding border checks.** To further develop the Union's policy with a view to carrying out checks on persons and efficiently monitoring the crossing of external borders referred to in the first paragraph of Article 77 TFEU, additional measures should address situations where third-country nationals are apprehended in connection with an unauthorised crossing of the external borders, where third-country nationals are disembarked following search and rescue operations ,where third-country nationals make an application for international protection at a border crossing point without fulfilling entry conditions. The present regulation complements and specifies Regulation (EU) 2016/399 with regard to those three sets of situations.

- (3) It is essential to ensure that in those three sets of situations, the third country nationals are screened, in order to facilitate a proper identification and to allow for them being referred efficiently to the appropriate procedures which, depending on the circumstances, might be the procedure for international protection or procedures respecting Directive 2008/115/EC of the European Parliament and of the Council (the “Return Directive”). The screening should seamlessly complement the checks carried out at the external border or compensate for the fact that those checks have not taken place when crossing the external border. ~~Where applicable, the checks carried out in the context of the screening may also form part of the checks to be performed in the context of ensuing procedures.~~
- (4) Border control is in the interest not only of the Member States at whose external borders it is carried out but of all Member States which have abolished internal border control. Border control should help to reduce **illegal** migration, to combat smuggling and trafficking of human beings and to prevent any threat to the Member States’ internal security, public policy, public health and international relations. When carrying out border control, Member States should act in compliance with relevant Union and international law, including the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967 ("the Geneva Convention"), obligations related to international protection, in particular the principle of non-refoulement, and fundamental rights. As such, measures taken at the external borders are important elements of a comprehensive approach to migration, allowing to address the challenge of mixed flows of irregular migrants and persons in need of international protection.
- (5) In accordance with Article 2 of Regulation (EU) 2016/399, border control consists of border checks carried out at the border crossing points and border surveillance, which is carried out between the border crossing points, in order to prevent third-country nationals from **border crossing not authorised under Article 5 of Regulation (EU) 2016/399 and thereby or** circumventing border checks. In accordance with Article 13 of Regulation (EU) 2016/399 a person who has crossed a border in an unauthorised manner and who has no right to stay on the territory of the Member State concerned shall be apprehended and made subject to procedures respecting Directive 2008/115/EC. In accordance with Article 3 of Regulation (EU) 2016/399, border control should be carried out without prejudice to the rights of refugees and persons requesting international protection, in particular as regards non-refoulement.

- (6) Border guards are often faced with third-country nationals who are requesting international protection without travel documents, both following apprehension during border surveillance and during checks at the border crossing points. Moreover, at some border sections the border guards are faced with large numbers of arrivals at the same time. In such circumstances, it is particularly difficult and important to ensure that all relevant databases are consulted and to determine the appropriate procedure as quickly as possible.
- (7) In particular, the screening should contribute to ensuring that the third-country nationals concerned are referred to the appropriate procedures at the earliest stage possible and that the procedures are continued without interruption and delay. At the same time, the screening should help to ~~contribute to~~ counter the practice whereby some applicants for international protection abscond after having been authorised to enter the territory of a Member State based on their request for international protection, in order to pursue such requests in another Member State or not at all.
- (8) With regard to those persons who apply for international protection, the screening should be followed by an examination of the need for international protection. It should allow to collect and share with the authorities competent for that examination any information that is relevant for the latter to identify the appropriate procedure for the examination of the application without prejudging the type of procedure, thus speeding up that examination. The screening should also contribute to identifying vulnerable persons so that any special needs are fully taken into account in the determination of and the pursuit of the applicable procedure.
- (9) The obligations on Member States stemming from this Regulation should be without prejudice to Regulation (EU) No XX/XXX [Asylum and Migration Management Regulation].

- (10) This Regulation should apply to third-country nationals and stateless persons regardless of whether they have made an application for international protection or not who are apprehended in connection with the unauthorised crossings of the external border of a Member State by land, sea or air, except third country nationals for whom the Member State is not required to take the biometric data pursuant to [Article 13(1) and (3) of the Eurodac Regulation] for reasons other than their age, **as well as to those third-country nationals who have been disembarked following search and rescue operations, and do not fulfil the entry conditions set out in Article 6 of Regulation (EU) 2016/399 [Schengen Borders Code]. For the latter category of persons, the application of this Regulation should be without prejudice to the obligations of Member States according to international law regarding search and rescue operations. This Regulation should also apply to those who seek international protection at the border crossing points or in transit zones without fulfilling the entry conditions or where third-country nationals, after having been authorized to enter pursuant to Article 6(5)(c) of Regulation 2016/399, make an application for international protection.**
- (11) The screening should be conducted at any adequate and appropriate location designated by each Member State generally situated at or in proximity to the external border or, alternatively, in other locations within the territory, taking into account geography and existing infrastructures, ensuring that screening can be carried out without delay.
- (12) Third country nationals subject to screening should remain available to the screening authorities during the screening. The Member States should lay down in their national law provisions to ensure **the presence of those third-country nationals** during the screening in order to prevent absconding. When it proves necessary and on the basis of an individual assessment of each case, Member States may detain a person subject to the screening if other less coercive alternative measures, cannot be applied effectively.

- (13) Wherever it becomes clear during the screening that a third-country national subject to it fulfils the conditions of Article 6 of Regulation (EU) 2016/399, the screening should end and the third-country national concerned should be authorised to enter the territory, without prejudice to the application of penalties as referred to in Article 5(3) of that regulation.
- (14) In view of the purpose of the derogation referred to in Article 6(5) of Regulation (EU) 2016/399, persons whose entry has been authorised by a Member State under that provision in an individual decision should not be submitted to the screening despite the fact that they do not fulfil all entry conditions, **unless they make an application for international protection.**
- (15) All persons subject to the screening should be submitted to checks, in order to identify or verify their identity and to verify whether they might pose a threat to internal security or public health. In the case of persons making an application for international protection at border crossing points, the identity and security checks carried out in the context of border checks should be taken into account to avoid duplication.
- (16) On completion of the screening, the third-country nationals concerned should be either referred to the authorities competent for registering the application for international protection, or be made subject to procedures respecting Directive 2008/115/EC (return directive), as appropriate. The relevant information obtained during the screening should be provided to the competent authorities to support the further assessment of each individual case, in full respect of fundamental rights. The procedures established by Directive 2008/115/EC should start applying only after the screening has ended. Article 27 of the Asylum Procedures Regulation should apply only after the screening has ended. This should be without prejudice to the fact that the persons applying for international protection at the moment of apprehension, in the course of border control at the border crossing point or during the screening, should be considered applicants for international protection and Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation] and Directive (EU) xxxx/xxxx [Reception Conditions Directive] should apply to them. **Where necessary, the checks set forth under this Regulation should continue within the ensuing procedure by the respective competent authorities.**

- (16a) Persons applying for international protection to whom Member States may not apply or may no longer apply a border procedure in accordance with Article 41e of Regulation (EU) xxxx/202x [Asylum Procedure Regulation], should, as a rule, be authorised to enter the territory.
- (17) The screening could also be followed by relocation under the mechanism for solidarity established by Regulation (EU) XXX/XXX [Asylum and Migration Management] or another existing solidarity mechanism.
- (18) In accordance with Article 12 of Regulation (EU) 2016/399, the fulfilment of entry conditions and the authorisation of entry are expressed in an entry stamp in a travel document. The absence of such entry stamp or the absence of a travel document may therefore be considered as an indication that the holder does not fulfil the entry conditions. With the start of the operation of the Entry/Exit System leading to substitution of the stamps with an entry in the electronic system, that presumption will become more reliable. Member States should therefore apply the screening to third-country nationals who are already within the territory and who are unable to prove that they fulfilled the conditions of entry into the territory of the Member States. The screening of such third-country nationals is necessary in order to compensate for the fact that they presumably managed to evade entry checks upon arrival in the Schengen area and therefore could have not been either refused entry or referred to the appropriate procedure following screening. Applying the screening could also help in ascertaining, through the consultation of the databases referred to in this Regulation, that the persons concerned do not pose a threat to internal security. By the end of the screening within the territory, the third-country nationals concerned should be subject to a return procedure or, where they apply for international protection, to the appropriate asylum procedure. Submitting the same third-country national to repeated screenings should be avoided to the utmost extent possible.

- (18a) Member States may refrain from applying the screening in accordance with Article 5 if a third-country national staying illegally on their territory is sent back, immediately after apprehension, to another Member State under bilateral agreements or arrangements or under a specific cooperation framework. In this case, the Member State to which the third-country national concerned has been sent back should apply the screening without delay.**
- (18b) This Regulation is without prejudice to provisions of national law covering the identification of third-country nationals suspected of staying in a Member State illegally in order to research, within a brief but reasonable time, the information enabling a determination of the illegality or legality of the stay.**
- (18c) Without prejudice to the rules on border control applicable at the internal borders of the Member States where a decision to lift such controls has not been taken yet, screening of third country nationals apprehended in connection with unauthorised crossing of such internal borders where the controls have not yet been lifted should follow the rules established by this Regulation for screening within the territory and not the rules established for screening at the external borders.**
- (19) The screening in accordance with Article 3 should be completed as soon as possible, and should not exceed seven days. The screening in accordance with Article 5 should be completed as soon as possible, and should not exceed three days. Member States should not be prevented from completing the screening in shorter periods, provided that the checks provided for in this Regulation are carried out.
- (20) The screening is a part of the European integrated border management. The Instrument for Financial Support for Border Management and Visa Policy, which is part of the Integrated Border Management Fund, as established by the Regulation (EU) 2021/1148 of the European Parliament and of the Council in particular may be mobilised to provide support to Member States' actions falling under this Regulation, in line with the rules governing the use of this Instrument and without prejudice to other priorities underpinned by it.

- (21) In order to achieve the objectives of the screening, **a stronger framework for** close cooperation should be ensured between the competent national authorities referred to in Article 16 of Regulation 2016/399, those responsible for asylum procedures and reception of applicants, **those responsible for the protection of public health**, as well as those responsible for carrying out return procedures respecting Directive 2008/115. Child protection authorities should also be closely involved in the screening wherever necessary to ensure that the best interests of the child are duly taken into account throughout the screening. Member States should be allowed to avail themselves of the support of the relevant agencies, in particular the European Border and Coast Guard Agency and the [European Union Agency for Asylum], within the limits of their mandates. Member States should involve national authorities in charge of detecting and identifying victims of trafficking wherever the screening reveals facts relevant for trafficking in line with Directive 2011/36/EU of the European Parliament and of the Council.
- (21a) During the screening procedure, the best interests of the child should always be a primary consideration in accordance with Article 24(2) of the Charter of Fundamental Rights of the European Union (the ‘Charter’). Child protection authorities should, wherever necessary, be closely involved in the screening to ensure that the best interests of the child are duly taken into account throughout the screening. A representative should be appointed to represent and assist the unaccompanied minor during the screening or, where a representative has not been designated, a person trained to safeguard the best interests of the minor and his or her general wellbeing. Where applicable, this representative should be the same as the representative to be appointed in accordance with Article 27 of Directive (EU) XXX/XXX [Reception Conditions Directive]. The trained person should be the person designated to provisionally act as a representative under Directive (EU) xxx/xxx [Reception Conditions Directive] where that person has been designated.
- (22) When applying this Regulation, the Member States should ensure the respect for human dignity and should not discriminate against persons on grounds of sex, racial, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinions, membership of a national minority, disability, age or sexual orientation.

- (23) In order to ensure compliance with EU and international law, including the Charter of Fundamental Rights, during the screening, each Member State should provide for a monitoring mechanism and put in place adequate safeguards for the independence thereof such as respecting the Paris Principles, the Venice Principles, the United Nations General Assembly Resolution of 28 December 2020 on the role of the Ombudsman, and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment ~~and by involving National Ombudspersons and national human rights institutions, including National Preventive Mechanisms.~~ **For this purpose, Member States may resort to already existing national fundamental rights monitoring mechanisms in accordance with the requirements set out in this Regulation.** The monitoring mechanism should cover in particular the respect for fundamental rights in relation to the screening, as well as the respect for the applicable EU and national rules regarding detention and compliance with the principle of non-refoulement as referred to in Article 3(b) of Regulation (EU) 2016/399. The Fundamental Rights Agency should establish general guidance as to the establishment and the independent functioning of such monitoring mechanism. Member States should furthermore be allowed to request the support of the Fundamental Rights Agency for developing their national monitoring mechanism. Member States should also be allowed to seek advice from the Fundamental Rights Agency with regard to establishing the methodology for this monitoring mechanism and with regard to appropriate training measures. Member States should also be allowed to invite relevant and competent national, international and non-governmental organisations and bodies to participate in the monitoring. The independent monitoring mechanism should be without prejudice to the monitoring of fundamental rights provided by the European Border and Coast Guard Agency's fundamental rights monitors provided for in Regulation (EU) 2019/1896, the monitoring mechanism for the purpose of monitoring the operational and technical application of the Common European Asylum System (CEAS) as set out in Article 14 of Regulation (EU) 2021/2303 of the European Parliament and of the Council ~~4b~~[EU Asylum Agency Regulation], the Schengen Evaluation and Monitoring Mechanism provided for in Council Regulation (EU) 2022/922 of the European Parliament and of the Council ^{1c} and monitoring carried out by existing national or international monitoring bodies. The Member States should investigate allegations of the breach of the fundamental rights during the screening, including by ensuring that complaints are dealt with expeditiously and in an appropriate way.

- (23a) Member States should equip the independent monitoring mechanism with appropriate financial means.
- (23b) The mere existence of judicial remedies in individual cases or national systems that supervise the efficiency of the screening is not sufficient to comply with the requirements of Article 7.
- (24) The screening authorities responsible for the screening should fill in a **screening form**. The form should be transmitted **by any appropriate means, including digital tools** to the authorities registering applications for international protection or to the authorities competent for return **procedures** depending **to** whom the **person** is referred. **This Regulation should be without prejudice to actions undertaken in line with national law with a view to establish the identity of the person concerned or to assess possible threats to internal security.**
- (24a) The information in the screening form should be recorded in such a way that it is amenable to administrative and judicial review during any ensuing asylum or return procedure. The person subject to the screening should have the possibility to indicate to the screening authorities that the information contained in the form is incorrect. Any such indication should be recorded in the screening form without delaying the completion of the screening.
- (24b) Information contained in the form should be made available either in paper or electronic format to the person concerned, with the exception of the information related to the consultation of relevant databases for security checks. **In the case of minors, the information contained in the form should be provided to the adult or adults responsible for the child. In the case of unaccompanied minors, the information contained in the form should be provided to the representative of the child or the person trained to safeguard the best interests of the minor and his or her general well-being.**
- (24c) The processing of data during the screening procedure should always be carried out in accordance with the applicable EU data protection law, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council^{1a} [GDPR].

- (25) The biometric data taken during the screening should, together with the data referred to in Articles [10, 12, 13, 14 and 14a] of the Eurodac Regulation be transmitted to Eurodac by the competent authorities in accordance with the deadlines provided for in that Regulation. ~~Those data will be deleted in accordance with the timelines set out in that Regulation.~~
- (26) Third-country nationals submitted to the screening should be subject to a preliminary health check by qualified medical personnel with a view to identifying any needs for health care or isolation on public health grounds. Qualified medical personnel may, based on the medical circumstances concerning the general state of each individual third-country national, decide that no further health check during the screening is necessary. The preliminary health check should be carried out by qualified medical personnel belonging to one of the following categories of the ISCO-08 classification: 221 Medical Doctors, 2221 Nursing Professionals, 2240 Paramedical Practitioners.
- (26a) A preliminary vulnerability check should be carried out ~~on all persons submitted to the screening~~ with a view to identifying persons with indications of being vulnerable, ~~who are in a vulnerable situation~~, of being victims of torture or other inhuman or degrading treatment, of being stateless persons ~~or at risk of becoming stateless persons~~, or who may have special reception or procedural needs within the meaning of Article 27 of Directive (EU) xxxx/xxxx [Reception Conditions Directive] and Article 21 of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation]. This is without prejudice to further assessment in ensuing procedures following the completion of screening.
- (27) During the screening, all persons concerned should be guaranteed a standard of living complying with the Charter of Fundamental Rights of the European Union and have access to emergency health care and essential treatment of illnesses. Particular attention should be paid to individuals with vulnerabilities, such as pregnant women, elderly persons, single parent families, persons with an immediately identifiable physical or mental disability, persons visibly having suffered psychological or physical trauma and unaccompanied minors. In particular, in case of a minor, information should be provided in a child-friendly and age appropriate manner. All the authorities involved in the performance of the tasks related to the screening should **report any situation of vulnerabilities observed or reported to them**, respect human dignity, privacy, and refrain from any discriminating actions or behaviour.

- (28) Since third-country nationals subject to the screening may not have the necessary identity and travel documents required for the legal crossing of the external border, an identification **or verification** procedure should be carried out as part of the screening.
- (29) The Common Identity Repository (“CIR”) was established by Regulation (EU) 2019/817 of the European Parliament and of the Council (Interoperability Regulation)¹ to facilitate and assist in the correct identification of persons registered in the Entry/Exit System (“EES”), the Visa Information System (“VIS”), the European Travel Information and Authorisation System (“ETIAS”), Eurodac and in the European Criminal Records Information System for third country nationals (“ECRIS-TCN”), including of unknown persons who are unable to identify themselves. For that purpose, the CIR contains only the identity, travel document and biometric data recorded in EES, VIS, ETIAS, Eurodac and ECRIS-TCN, logically separated. Only the personal data strictly necessary to perform an accurate identity check is stored in the CIR. The personal data recorded in the CIR are automatically deleted where the data are deleted from the underlying systems. Consultation of the CIR enables a reliable and exhaustive identification or verification of identity of persons, by making it possible to consult all identity data present in the EES, VIS, ETIAS, Eurodac and ECRIS-TCN in one go, in a fast and reliable manner, while ensuring a ~~maximum~~ the protection of the data and avoiding unnecessary processing or duplication of data.
- (30) In order to establish the identity or to verify the identity of the persons subject to the screening, a verification should be initiated in the CIR in the presence of the person during the screening. During that verification, the biometric data of the person should be checked against the data contained in the CIR. Where the biometric data of a person cannot be used or if a query with that data fails or returns no hit, the query could be carried out with identity data of the person in combination with travel document data, where such data are available or with data or information provided by or obtained from the third-country national concerned. In accordance with the principles of necessity and proportionality, and where the query indicates that data on that person are stored in the CIR, Member State authorities should have access to the CIR to consult the identity data, travel document data and biometric data of that person, without the CIR providing any indication as to which EU information system the data belong to.

- (31) Since the use of the CIR for identification purposes has been limited by Regulation (EU) 2019/817 and Regulation (EU) 2019/818 to facilitating and assisting in the correct identification of persons registered in the EES, VIS, ETIAS, Eurodac and ECRIS-TCN in situations of police checks within the territory of the Member States, those Regulations need to be amended to provide for the additional purpose of using the CIR to identify or verifying the identity of persons during the screening established by this Regulation. In the case of Regulation (EU) No 2019/818, this amendment should for reasons of variable geometry take place through a different regulation than the present one.
- (32) Given that many persons submitted to the screening may not have any travel documents, the authorities conducting the screening should have access to any other relevant documents held by the persons concerned in cases where the biometric data of such persons are not usable or yield no result in the CIR. The authorities should also be allowed to use data from those documents, other than biometric data, to carry out checks against the relevant databases.
- (33) The identification or verification of identity of persons during border checks at the border crossing point and any consultation of the databases in the context of border surveillance or police checks in the external border area or within the territory by the authorities who referred the person concerned to the screening should be considered as part of the screening and should not be repeated, unless there are special circumstances justifying such repetition. **The taking of biometric data for the purpose of both verification of identity or identification and of the registration in accordance with the requirements of Regulation (EU) xxxx/xxxx [Eurodac Regulation], should take place once as part of the screening.**
- (34) In order to ensure uniform conditions for the implementation of Articles 11(5) and 12(5) of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹. For the adoption of relevant implementing acts, the examination procedure should be used.
- (35) The screening should also assess whether the entry of the third-country nationals into the Union might pose a threat to internal security.

- (36) As the screening concerns **third-country nationals** present at the external border without fulfilling entry conditions, disembarked after a search and rescue operation, and to third country nationals illegally staying within the territory of Member States, the security checks as part of the screening should be at least of a similar level as the checks performed in respect of third country nationals who apply beforehand for an authorisation to enter the Union for a short stay, whether they are under a visa obligation or not.
- (37) For third-country nationals who are on the basis of their nationality exempt from the visa requirement under Regulation (EU) 2018/1806 of the European Parliament and the Council¹, Regulation (EU) 2018/1240 of the European Parliament and of the Council² (ETIAS Regulation) provides that they have to apply for a travel authorisation to come to the EU for short stay. Before receiving that travel authorisation, the persons concerned are submitted to security checks of the personal data they submit against a number of EU databases – the Visa Information System (VIS), the Schengen Information System (SIS), the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS), the Europol data processed for the purpose referred to in Article 18(2)(a) of Regulation (EU) 2016/794³, – ECRIS-TCN⁴ – as well as Interpol’s Stolen and Lost Travel Document database (SLTD) and Travel Documents Associated with Notices database (Interpol TDAWN).
- (38) As to third-country nationals who are subject to the visa requirement under Regulation (EU) 2018/1806, they are submitted to security checks against the same databases as visa-free third country nationals, pursuant to Regulation (EU) 810/2009 and Regulation (EU) 767/2008 before a visa is issued.
- (39) It follows from the reasoning developed in recital (36) that as regards persons subject to the screening, automated verifications for security purposes should be carried out against the same systems as is provided for applicants for a visa or for a travel authorisation under the European Travel Information and Authorisation System: the VIS, EES, ETIAS, including the ETIAS watchlist, SIS, ECRIS-TCN, Europol, Interpol’s SLTD and TDAWN. Persons submitted to the screening should also be checked against ECRIS-TCN as regards persons convicted in relation to terrorist offences and other forms of serious criminal offences, Europol data referred to in the preceding recital 38, the Interpol’s Lost and Stolen Travel Documents database and Travel Documents Associated with Notices databases (TDAWN). Relevant national databases may also be consulted.

- (40) **The consultation of the relevant databases for security purposes** should be conducted in a manner that ensures that only data necessary for carrying out the security checks is retrieved from those databases. With regard to persons who have **made an application for** international protection at a border crossing point or in transit zones, the consultation of databases for the security check as part of the screening should focus on the databases that were not consulted during the border checks at the external border, thus avoiding repeated consultations.
- (41) Where justified for **its** purpose the screening could also include verification of objects in the possession of third-country nationals, in accordance with national law. Any measures applied in the context of a security check should be proportionate and should respect the human dignity of the persons subject to the screening. The authorities involved should ensure that the fundamental rights of the individuals concerned are respected, including the right to protection of personal data and freedom of expression.
- (42) Since access to EES, ETIAS, VIS and ECRIS-TCN is necessary for the screening authorities in order to establish whether the person might pose a threat to the internal security, Regulation (EC) No 767/2008 **of the European Parliament and of the Council**^{1a}, Regulation (EU) 2017/2226 **of the European Parliament and of the Council**^{1b}, Regulation (EU) 2018/1240 **of the European Parliament and of the Council**^{1c} and Regulation ~~(E)EU) No 2019/816~~ **2019/816 of the European Parliament and of the Council**^{1d}, respectively, should be amended to provide for this access right which is currently not provided by those Regulations. In the case of Regulation (EU) No 2019/816, this amendment should for reasons of variable geometry take place through a different regulation than the present one.
- (43) The European search portal (ESP) established by Regulation (EU) 2019/817 should be used to carry out the searches against the CIR for identification or the verification of identity.
- (43a)** The European search portal (ESP) established by Regulation (EU) 2019/817 may be used to carry out the searches against the EES, ETIAS, VIS and ECRIS-TCN, **Europol data and Interpol databases**, for the purpose of security checks, as applicable.

- (44) **The consultation of European databases for the purpose of verification of identity or identification and security checks can be justified** for the effective implementation of the screening and for achieving the same objective for which each of those databases has been established, that is to say, the effective management of the Union's external borders in the context of European integrated border management.
- (44a) **In case of a hit pursuant to Article 10 or Article 11, the screening authority should verify that data recorded in EU information systems or Europol correspond to the data triggering a hit.**
- (44aa) Relevant national databases can also be checked in this context in accordance with national legislation.
- (44b) **For the purposes of complying with the obligation to perform identity and security checks during the screening, Member States who do not yet apply some provisions of Schengen acquis in full and do not therefore have access to all Union systems and databases are responsible for the identity and security checks by carrying out searches only in those Union systems and databases to which they have access.**
- (45) Since the objectives of this Regulation, namely **to strengthen the control of persons and to provide for the verification of identity or for the identification of all third-country nationals subject to the screening and for the consultation of the relevant databases in order to verify whether the persons might pose a threat to internal security** and contribute to their referral to the appropriate procedures, cannot be achieved by the Member States acting alone, it is necessary to establish common rules at Union level. Thus, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

- (46) In accordance with Articles 1 and 2 of the Protocol No 22 on the position of Denmark, as annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen acquis, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.
- (47) This Regulation constitutes a development of the provisions of the Schengen acquis, in which Ireland does not take part, in accordance with Council Decision 2002/192/EC¹; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (48) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC¹.
- (49) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC¹.

- (50) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU¹.
- (51) As regards Cyprus, ~~Bulgaria, Romania and Croatia~~, this Regulation constitutes an act building upon, or otherwise related to, the Schengen acquis within the meaning of Article 3(1) of the 2003 Act of Accession.
- (51a) As regards Cyprus, Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol 10 to the Act of Accession provides for specific rules that apply to the line between the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus exercises effective control and those areas in which the Government of the Republic of Cyprus does not exercise effective control. Under this Regulation, although the line does not constitute an external border, checks are to be carried out on all persons crossing the line through an authorized or unauthorized crossing point with the aim to combat illegal immigration of third-country nationals and to detect and prevent any security risk. It follows that screening under Article 3 may also apply to third-country nationals who are apprehended in connection with an unauthorized crossing of the line and to those who have made an application for international protection at the authorized crossing points.**
- (51b) Denmark, Norway, Iceland, Switzerland, and Liechtenstein are not bound by the Reception Conditions Directive 2024/XXX/EU. In these States the reception conditions for applicants for international protection are regulated by relevant national legislations based on the application of the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967. As regards those States the references made in this Regulation to the Reception Conditions Directive 2024/XXX/EU should be understood as references to corresponding provisions in national law.**

HAVE ADOPTED THIS REGULATION:

Article 1

Subject matter and scope

This Regulation establishes ~~the~~ screening **of third-country nationals** at the external borders of the Member States ~~of all third-country nationals who~~**who, without fulfilling entry conditions**, have crossed the external border in an unauthorised manner, ~~of those who have applied for international protection during border checks without fulfilling entry conditions, as well as those, or have been disembarked after a search and rescue operation~~ **and of third-country nationals illegally staying within the territory of the Member States where there is no indication that those third-country nationals have been subject to controls at external borders**, before they are referred to the appropriate procedure.

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

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

This Regulation also provides for an independent mechanism in each Member State to monitor compliance with Union and international law, including the Charter, during the screening.

Article 1a

Fundamental rights

When applying this Regulation, Member States shall act in full compliance with relevant Union law, including the Charter, with relevant international law, including the Convention Relating to the Status of Refugees done at Geneva on 28 July 1951 ('the Geneva Convention'), and with the obligations related to access to international protection, in particular the principle of non-refoulement, and fundamental rights.

Article 2

Definitions

For the purposes of this Regulation, the following definitions apply:

1. ~~'unauthorised crossing of the external border' means crossing of an external border of a Member State by land, sea or air, at places other than border crossing points or at times other than the fixed opening hours, as referred to in Article 5(3) of Regulation (EU) 2016/399;~~
2. ~~'threat to public health' means— a threat to public health within the meaning of Article 2, point 21, of Regulation (EU) 2016/399;~~
3. ~~'verification' means the process of comparing sets of data to establish the validity of a claimed identity (one to one check)referred to in Article 4 (5) of Regulation (EU) 2019/817;~~
4. ~~'identification' means the process of determining a person's identity including through a database search against multiple sets of data (one to many check)referred to in Article 4(6) of Regulation (EU) 2019/817;~~

5. 'third-country national' means any person who is not a citizen of the Union within the meaning of Article 20(1) TFEU and who is not a person enjoying the right to free movement under Union law within the meaning of Article, 2 Point 5, of Regulation (EU) 2016/399.
6. **'stateless person' means a person who is not considered as a national by any State under the operation of its law.**
7. **Europol data' means data as referred to in Article 4 (16) of Regulation (EU) 2019/817;**
8. **'representative' means a person or an organisation, including a public authority designated by the competent authorities or bodies, with the necessary skills and expertise, including regarding the treatment and specific needs of minors, to represent, assist and act on behalf of an unaccompanied minor, as applicable, in order to safeguard his or her best interests and general well-being and so that the unaccompanied minor can benefit from the rights and comply with the obligations under this Regulation;**
9. **'biometric data' means data as referred to in Article 4 (11) of the Interoperability Regulation (EU) 2019/817;**
10. **'minor' means a third-country national or stateless person below the age of 18 years;**
11. **'screening authorities' means all competent authorities designated by national law to carry out one or more of the tasks under this Regulation, except for the health checks laid down in Article 9(1) of this Regulation;**
12. **'unaccompanied minor' means a minor who arrives on the territory of the Member State unaccompanied by an adult responsible for such minor, whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such an adult, including a minor who is left unaccompanied after he or she entered the territory of a Member State;**

13. 'detention' means confinement of a person by a Member State within a particular place, where such person is deprived of freedom of movement.
14. 'Interpol databases' means databases as referred to in Article 4 (17) of the Interoperability Regulation (EU) 2019/817;
15. 'Search and Rescue Operations' means operations of search and rescue as referred to in the 1979 International Convention on Maritime Search and Rescue adopted in Hamburg, Germany on 27 April 1979.

Article 3

Screening at the external border

1. **The screening provided for in this Regulation shall apply to all ~~third-country~~third country nationals, regardless of whether they have made an application for international protection, who:**
- (a) are apprehended in connection with an unauthorised crossing of the external border of a Member State by land, sea or air, except ~~third-country~~third-country nationals for whom the Member State is not required to take the biometric data pursuant to Article 14(1) and (3) of Regulation (EU) 603/2013 for reasons other than their age, or
 - (b) are disembarked in the territory of a Member State following a search and rescue operation-

~~The screening shall apply to those persons regardless of whether they have applied for international protection~~**and do not fulfil the entry conditions set out in Article 6 of Regulation (EU) 2016/399.**

2. The screening **provided for in this Regulation** shall ~~also~~ apply to all third-country nationals who ~~apply~~**have made an application** for international protection at external border crossing points or in transit zones and who do not fulfil the entry conditions set out in Article 6 of Regulation (EU) 2016/399.

3. ~~The screening is without prejudice to the application of~~ **Third country nationals who have been authorised to enter pursuant to Article 6(5) of Regulation 2016/399 shall not be subject to screening. However, third country nationals who are authorised to enter pursuant to Article 6(5) of 6(5)(c) of that Regulation (EU) 2016/399, except the situation and who make an application for international protection shall be subject to screening.**

Where it becomes apparent during the screening that the ~~third-country national concerned fulfils the entry conditions set out in the beneficiary of an individual decision issued by the Member State based on Article 6(5)(c) of that~~ **6 of Regulation is seeking international protection (EU) 2016/399 [Schengen Borders Code], the screening shall end.**

Article 3a

Relation with other legal instruments

1. **For third-country nationals subject to the screening who have made an application for international protection a) the registration of the application for international protection in accordance with the Regulation (EU) xxxx/202x [Asylum Procedure Regulation] is determined by Article 27 of that Regulation b) the application of the common standards for the reception of applicants for international protection of the Reception Conditions Directive [Directive 2013/33/EU of the European Parliament and of the Council, laying down standards for the reception of applicants for international protection (recast)] is determined by Article 3 of that Directive.**
2. **Without prejudice to Article 6(6e), Directive 2008/115/EC (Return Directive) or national provisions respecting Directive 2008/115/EC shall only apply after the screening has ended, except for the screening referred to in Article 5, where they shall apply in parallel with the screening referred to in that Article.**

Article 4

Authorisation to enter the territory of a Member State

1. During the screening, the persons referred to in Article 3, paragraphs 1 and 2, shall not be authorised to enter the territory of a Member State. **Member States shall lay down in their national law provisions to ensure that persons referred to in Article 3, paragraphs 1 and 2 shall remain at the disposal of the competent authorities in the locations as referred to in Article 6, for the duration of the screening to prevent any risk of absconding, potential resulting threats to internal security or public health risks.**
2. ~~Where it becomes apparent during the screening that the third-country national concerned fulfils the entry conditions set out in Article 6 of Regulation (EU) 2016/399, the screening shall be discontinued and~~**Screening may be discontinued when the third country national leaves the territory of the Member States, for the country of origin, residence or another third country to which the third-country national concerned shall be authorised to enter the territory, without prejudice to the application of penalties as referred to in Article 5(3) of that Regulation voluntarily decides to return and where he or she is accepted.**

Article 5

Screening within the territory

1. Member States shall apply the screening to third-country nationals ~~found~~**illegally staying** within their territory ~~where there is no indication that~~**only where** they have crossed an external border to enter the territory of the Member States in an ~~authorised~~**unauthorised** manner **and they have not been already subjected to screening in a Member State. Member States shall lay down in their national law provisions to ensure that those third country nationals remain at the disposal of the competent authorities for the duration of the screening, to prevent any risk of absconding and potential resulting threats to internal security.**

2. **Member States may refrain from applying the screening in accordance with paragraph 1 if a third-country national staying illegally on their territory is sent back, immediately after apprehension, to another Member State under bilateral agreements or arrangements or under a specific cooperation framework. In this case, the Member State to which the third-country national concerned has been sent back shall apply the screening.**

Article 6

Requirements concerning the screening

1. In the cases-referred to in Article 3, the screening shall be conducted at **any adequate and appropriate locations designated by each Member State, generally** situated at or in proximity to the external borders **or, alternatively, in other locations within the territory.**
2. In the cases referred to in Article 5, the screening shall be conducted at any **adequate and appropriate location designated by each Member State** within the territory of a Member State.
3. In the cases referred to in Article 3, the screening shall be carried out without delay and shall in any case be completed within ~~57~~ days from the apprehension in the external border area, the disembarkation in the territory of the Member State concerned or the presentation at the border crossing point. **With regard to persons referred to in Article 3(1)(a) to whom Article 14(1) and (3) of Regulation (EU) xxxx/xxxx [Eurodac Regulation] apply, where those persons remain physically at the external border for more than 72 hours, the screening shall apply to them thereafter and the period for the screening shall be reduced to four**~~In exceptional circumstances, where a disproportionate number of third-country nationals needs to be subject to the screening at the same time, making it impossible in practice to conclude the screening within that time limit, the period of 5 days may be extended by a maximum of an additional 5 days.~~

~~With regard to persons referred to in Article 3(1)(a) to whom Article 14 (1) and (3) of Regulation (EU) 603/2013 apply, where they remain physically at the external border for more than 72 hours, the period for the screening shall be reduced to two days.~~

4. ~~Member States shall notify the Commission without delay about the exceptional circumstances referred to in paragraph 3. They shall also inform the Commission as soon as the reasons for extending the screening period have ceased to exist.~~
5. The screening referred to in Article 5 shall be carried out without delay and in any case shall be completed within 3 days from apprehension.
6. The screening shall comprise the following ~~mandatory~~ elements:
 - (a) ~~a preliminary health and vulnerability check as referred to in~~ **in accordance with Article 9;**
 - (aa) **a preliminary vulnerability check as referred to in Article 9;**
 - (b) **identification or verification of identity** as referred to in Article 10;
 - (c) ~~registration of biometric data in the appropriate databases as referred to in Article 14(6)~~ **accordance with [Articles 10, 13 and 14a of Regulation (EU) xxxx/xxxx [Eurodac Regulation]],** to the extent it has not occurred yet;
 - (d) **a security check** as referred to in Article 11;
 - (e) ~~the filling out of a de-briefing~~ **screening** form as referred to in Article 13;
 - (f) **referral to the appropriate procedure** as referred to in Article 14.
- 6a. **Organisations and persons providing advice and counselling shall have effective access to third-country nationals during the screening. Member States may impose limits to such access where, by virtue of national law, they are objectively necessary for the security, public order or administrative management of a border crossing point or of a screening facility, provided that access is not severely restricted or rendered impossible.**

- 6b. The relevant rules on detention set out in Directive 2008/115/EC (Return Directive) shall apply during screening in respect of third-country nationals who have not made an application for international protection.
- 6c. Member States shall ensure that all persons subject to the screening are accorded a standard of living which guarantees their subsistence, protects their physical and mental health, and respects their rights under the Charter.
7. Member States shall designate ~~competent~~the screening authorities ~~to~~and shall ensure that the staff of those authorities who will carry out the screening have the appropriate knowledge and have received the necessary training in accordance with Article 16 of Regulation (EU) 2016/399 [SBC].

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

Member States shall ~~designate~~ensure that qualified medical staff ~~to~~personnel carries out the preliminary health check provided for in Article 9 and that specialised personnel of the screening authorities trained for that purpose carry out the health preliminary vulnerability check provided for in Article 9. National child protection authorities and national anti-trafficking ~~rapporteurs~~authorities in charge of detecting and identifying victims of trafficking or equivalent mechanisms shall also be involved, where appropriate.

Member States shall also ensure that only the screening authorities responsible for the identification or verification of identity and the security check have access to the databases foreseen in Article 10 and Article 11 of this Regulation.

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

Article 6a

Obligations of third country nationals submitted to screening

1. During the screening, third country nationals subject to screening shall remain available to the screening authorities.
2. Third-country nationals shall: a) indicate their name, date of birth, gender and nationality and provide related documents and information, where available, that can prove this data; b) provide biometric data as referred to in Regulation (EU) XXX/XXX [EURODAC III Regulation)].

Article 7

Monitoring of fundamental rights

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

Member States shall ensure, where appropriate, referral for the initiation of civil or criminal justice proceedings in cases of failure to respect or to enforce fundamental rights in accordance with national law.

2. Each Member State shall ~~establish~~**provide for** an independent **mechanism in accordance with the requirements set out in this article, which shall:** - monitor compliance with EU and international law, including the Charter of Fundamental Rights, in particular as regards access to the asylum procedure, the principle of non-refoulement, the best interest of the child and the relevant rules, including relevant provisions in national law, on detention of the person concerned, during the screening ; and
- ensure that substantiated allegations of non-respect for fundamental rights in all relevant activities in relation to the screening, are dealt with effectively and without undue delay, to trigger such investigations where necessary and to monitor the progress of such investigations.

The independent monitoring mechanism shall cover all activities undertaken by the Member States in implementing this Regulation.

- ~~to ensure compliance with EU and international law, including the Charter of Fundamental Rights, during the screening;~~
- ~~where applicable, to ensure compliance with national rules on detention of the person concerned, in particular concerning the grounds and the duration of the detention;~~
- ~~to ensure that allegations of non-respect for fundamental rights in relation to the screening, including in relation to access to the asylum procedure and non-compliance with the principle of non-refoulement, are dealt with effectively and without undue delay~~

~~**The independent monitoring mechanism shall have the power to issue annual recommendations to Member States.**~~

Member States shall put in place adequate safeguards to guarantee the independence of the mechanism. **National Ombudspersons and national human rights institutions, including National Preventive Mechanisms, shall participate in the operation of the mechanism and may be appointed to act as independent monitors. The independent monitoring mechanism may also involve relevant international and non-governmental organisations and public bodies independent from the authorities carrying out the screening.**

The mechanism shall establish and maintain close links with the national data protection authorities and the European Data Protection Supervisor. Insofar as one or more of those institutions or organisations are not directly involved in the mechanism, the bodies responsible for the monitoring mechanism shall establish and maintain close links with them.

The independent monitoring mechanism provided for by this Article shall carry out its tasks on the basis of spot checks and random and unannounced checks.

Member States shall provide the mechanism with access to all relevant locations, including reception and detention facilities, individuals and documents, insofar as such access is necessary to allow the mechanism to fulfil the obligations set out in this Article. Access to relevant locations or classified information shall be granted only to monitors having received the appropriate security clearance issued by a competent authority in accordance with national law.

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

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

The Commission shall take into account the findings of the independent monitoring mechanisms in the assessment of the effective application and implementation of the Charter according to Article 15(1) and Annex III of Regulation (EU) 2021/1060 of the European Parliament and of the Council [Common Provisions Regulation].

- 2a. The mechanism referred to above shall be without prejudice to the monitoring mechanism for the purpose of monitoring the operational and technical application of the CEAS as set out in Article 14 of Regulation (EU) 2021/2303 [EU Asylum Agency Regulation] and to the role of the fundamental rights monitors in monitoring respect for fundamental rights in all activities of the European Border and Coast Guard Agency as set out in Article 80 of Regulation (EU) 2019/1896 [European Border and Coast Guard Regulation].**
- 2b. Member States shall equip the independent monitoring mechanism with appropriate financial means.**

Article 8

Provision of information

1. **Member States shall ensure that** third-country nationals subject to the screening ~~shall be succinctly~~**are** informed about ~~the purpose and the modalities of the screening:~~
 - (a) ~~the steps and~~**purpose, duration,** modalities **and elements** of the screening as well as possible outcomes of the ~~screening;~~
 - (aa) **the right to apply for international protection and the applicable rules on making an application for international protection, where appropriate in the circumstances specified in Article 30 of Regulation (EU) xxxx/202x [Asylum Procedure Regulation], and, for those having made an application for international protection, the obligations and the consequences of non-compliance laid down in Articles 9 and 10 of Regulation (EU) No XXX/XXX Asylum and Migration Management Regulation];**
 - (b) the rights and obligations ~~of third-country of~~**third-country** nationals during the screening, including the obligation on them **referred to in Article 6a and the possibility to contact and be contacted by the organisations and persons referred to in Article 6(6a) of this Regulation;**~~to remain in the designated facilities during the screening.~~
 - (ba) **the rights conferred on the data subject by the applicable [EU] data protection law, in particular Regulation (EU) 2016/679 [GDPR].**
2. ~~During the screening, they~~**Member States shall also ensure, where, as appropriate, receive information on that third-country nationals subject to the screening are informed about:**

- (a) the applicable rules on the conditions of entry for third-country nationals in accordance with Regulation (No) 2016/399 [Schengen ~~Border~~**Borders** Code], as well as on other conditions of entry, stay and residence of the Member State concerned, to the extent this information has not been given already;
- (b) ~~where they have applied, or there are indications that they wish to apply, for international protection, information on the obligation to apply for international protection in the Member State of first entry or legal stay set out in Article [9(1) and (2)] of Regulation (EU) No XXX/XXX [ex-Dublin Regulation], the consequences of non-compliance set out in Article [10(1)] of that Regulation, and the information set out in Article 11 of that Regulation as well as on the procedures that follow the making of an application for international protection;~~
- (c) the obligation for ~~illegally staying third-country nationals~~ to return in accordance with Directive ~~XXXXXX~~ [(EU) 2008/115/EC (Return Directive)] **and the possibilities to enrol in a programme providing logistical, financial and other material or in-kind assistance for the purpose of supporting voluntary departure;**
- (d) ~~the possibilities to enrol in a programme providing logistical, financial and other material or in-kind assistance for the purpose of supporting voluntary departure;~~
- (e) the conditions of participation in relocation in accordance with Article XX of Regulation (EU) No XXX/XXX [~~ex-Dublin Regulation~~]**AMMR] or another existing solidarity mechanism;**
- (f) ~~the information referred to in Article 13 of the Regulation (EU) 2016/679[†] [GDPR].~~

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

3. The information provided during the screening shall be given in a language which the third-country national understands or is reasonably supposed to understand. The information shall be ~~given~~**provided** in writing ~~and, in exceptional circumstances, physically or electronically, and~~, where necessary, orally using interpretation services. **In the case of minors, the information** ~~It shall be provided in an appropriate~~**a child-friendly manner taking into account the age and the gender of the person and with the involvement of the representative or person referred to in Article 9a, paragraph 3. The responsible authorities may make the necessary arrangements for cultural mediation services to be available to facilitate access to the procedure for international protection.**
4. Member States may authorise relevant and competent national, international and non-governmental organisations and bodies to provide third country nationals with information under this article during the screening according to the provisions established by national law.

Article 9

Preliminary health checks and vulnerabilities

1. Third-country nationals submitted to the screening referred to in Article 3 **and Article 5** shall be subject to a preliminary **health check by qualified medical examination personnel** with a view to identifying any needs for ~~immediate~~**health** care or isolation on public health grounds, ~~unless~~. **Qualified medical personnel may**, based on the **medical** circumstances concerning the general state of ~~the~~**each** individual third-country ~~nationals concerned and the grounds for directing them~~**national, decide that no further health check during the screening is necessary. Third-country nationals subject to the screening, the relevant competent authorities are satisfied that no preliminary medical screening is necessary. In that case, they shall inform those persons accordingly referred to in Article 3 and Article 5 shall have access to emergency health care and essential treatment of illness.**

- 1a. Without prejudice to the obligations on Member States laid down in Article 23 of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation], for those third-country nationals having made applications for international protection, the health check referred to in the first subparagraph of this Article may form part of the medical examination laid down in Article 23 of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation].
2. ~~Where relevant, if~~ **Third-country nationals submitted to the screening referred to in Article 3 and Article 5 shall be checked whether persons referred to in paragraph 1 are in a vulnerable situation, victimssubject to a preliminary vulnerability check by specialised personnel of the screening authorities trained for that purpose with a view to identifying any indication that a third-country national may be a stateless person or any indication of vulnerability, of being a victim of torture or have special reception or procedural other inhuman or degrading treatment, or having special needs within the meaning of Directive XXX/XXX [Return Directive], Article 20 of the [recast] 25 of Directive (EU) xxxx/xxxx [Reception Conditions Directive], and Article 21 of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation.] For the purpose of the vulnerability check, the screening authorities may be assisted by non-governmental organizations and, where relevant, by medical personnel [as referred to in Article 6(7)].**
3. Where there are indications of vulnerabilities or special reception or procedural needs, the third-country national concerned shall receive timely and adequate support in view of their physical and mental health **in adequate facilities**. In the case of minors, support shall be given **in a child-friendly manner** by personnel trained and qualified to deal with minors, and in cooperation with child protection authorities.
4. ~~Where it is deemed necessary based on the circumstances, third-country nationals submitted to the screening referred to in Article 5 shall be subject to a preliminary medical examination, notably to identify any medical condition requiring immediate care, special assistance or isolation.~~

- 4a. Without prejudice to the assessment of special reception needs required under Directive XXXX/XXX [Reception Conditions Directive], the assessment of special procedural needs required under Regulation XXXX/XXX [Asylum Procedures Regulation], and the vulnerability check required under Directive XXX/XXX [Return Directive], the preliminary vulnerability assessment referred to in the second and third paragraphs of this Article may form part of the vulnerability and special procedural assessments laid down in those legislative acts.

Article 9a

Guarantees for minors

1. During the screening, the best interests of the child shall always be a primary consideration in accordance with Article 24(2) of the Charter.
2. During screening, the minor shall be accompanied by, where present, an adult family member.
3. Member States shall, as soon as possible, take measures to ensure that a representative or, where a representative has not been designated, a person trained to safeguard the best interests of the minor and his or her general wellbeing accompanies and assists the unaccompanied minor during the screening in a child-friendly manner and in a language he or she can understand. The trained person shall be the person designated to provisionally act as a representative under Directive (EU) xxx/xxx [Reception Conditions Directive] where that person has been designated.

4. The trained person in charge of accompanying and assisting an unaccompanied minor in accordance with paragraph 3 shall not be an official responsible for any elements of the screening, shall act independently and shall not receive orders either from officials responsible for the screening or from the screening authorities. Such persons shall perform their duties in accordance with the principle of the best interests of the child and shall have the necessary expertise to that end. In order to ensure the well-being and social development of the minor, the trained person shall be changed only when necessary.
5. Member States shall place a representative or person referred to in paragraph 3 in charge of a proportionate and limited number of unaccompanied minors and, under normal circumstances, of no more than thirty at the same time to ensure that they are able to perform their tasks effectively.
6. If a representative or a person provisionally acting as a representative under Directive (EU) xxx/xxx [Reception Conditions Directive] has not been appointed, this shall not prevent an unaccompanied minor from exercising the right to apply for international protection.

Article 10

Identification or verification of identity

1. To the extent it has not yet occurred during the application of Article 8 of Regulation (EU) 2016/399 [Schengen Borders Code], the identity of third-country nationals submitted to the screening pursuant to Article 3 or Article 5 of this Regulation shall be verified or established, by using, where applicable, in particular the following, in combination with national and European databases:
 - (a) identity, travel or other documents;
 - (b) data or information provided by or obtained from the third-country national concerned; and
 - (c) biometric data;

2. For the purpose of the identification **and verification of identity** referred to in paragraph 1 **of this Article, the screening authorities,**~~the competent authorities~~ shall query, **using the data or information referred to in paragraph 1,**~~any relevant national databases as well as the common identity repository (CIR) referred to in~~**pursuant to Article 4720a of Regulation (EU) 2019/817 and pursuant to Article 20a of Regulation (EU) 2019/818, the Schengen Information System (SIS) and where relevant, national databases applicable in accordance with national legislation.** The biometric data of a third-country national **subject to the screening shall be taken live during the screening,**~~as well as the once for the purpose of both verification of identity data and, where available, travel document data shall be used to that end~~**or identification and registration in Eurodac of that person, in accordance with Articles 10(b), 13, 14 and 14a of [the Eurodac Regulation] as applicable.**
- 2a. **The consultation of the common identity repository (CIR) provided for in paragraph 2 shall be launched using the European Search Portal in accordance with Chapter II of Regulation (EU) 2019/817 and Chapter II of Regulation (EU) 2019/818.**
Where it is technically impossible to use the ESP to query one or several EU information systems or the CIR, the first subparagraph shall not apply and the screening authorities shall access the EU information systems or the CIR directly.
This is without prejudice to access by screening authorities to the Schengen Information System for which the use of the ESP shall remain optional.
3. Where the biometric data of the third-country national cannot be used or where the query with those data referred to in paragraph 2 fails,~~the query as referred to in paragraph 2 or~~**returns no hit, the query** shall be carried out with the identity data of the third-country national, in combination with any identity, travel or other document data, or with **any of the identity data provided by that third-country national**~~data or information referred to in paragraph 1(b) of this Article.~~
- 3a. **Searches in the SIS with biometric data shall be carried out in accordance with Article 33 of Regulation (EU) 2018/1861 and Article 43 of Regulation (EU) 2018/1862.**
4. The checks, where possible, shall also include the verification of at least one of the biometric identifiers integrated into any identity, travel or other document.

Article 11

Security check

1. ~~Third-country~~ **Third-country** nationals submitted to the screening pursuant to Article 3 or Article 5 ~~shall undergo a security check to verify that they do not constitute whether they~~ **might pose** a threat to internal security. The security check may cover both the third-country nationals and the objects in their possession. The law of the Member State concerned shall apply to any searches carried out.
2. For the purpose of conducting the security check referred to in paragraph 1, and to the extent ~~that they have not yet done so in accordance with~~ **it has not been already done during the checks referred to in Article 8(3) of Regulation (EU) 2016/399 [Schengen Borders Code], the relevant Union databases, in particular the SIS, the Entry/Exit System, — point (a)(vi) EES, the European Travel Information and Authorisation System (ETIAS), including the ETIAS watch list referred to in Article 34 of Regulation (EU) 2016/399, the competent authorities shall query relevant national and Union **2018/1240, the Visa Information System (VIS), the ECRIS-TCN system, the Europol data processed for the purpose referred to in Article 18(2), point (a), of Regulation (EU) 2016/794, and the Interpol Databases, in particular the Schengen Information System (SIS) shall be consulted as provided for in Article 12. Relevant national databases may also be consulted for this purpose.****
3. ~~To the extent it has not been already done during the checks referred to in Article 8 of Regulation (EU) 2016/399, the competent authority shall query the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS), including the ETIAS watch list referred to in Article 29 of Regulation (EU) 2018/1240, the Visa Information System (VIS), the ECRIS-TCN system as far as convictions related to terrorist offences and other forms of serious criminal offences are concerned, the Europol data processed for the purpose referred to in Article 18(2), point (a), of Regulation (EU) 2016/794, and the Interpol Travel Documents Associated with Notices database (Interpol TDAWN) with the data referred to in Article 10(1) and using at least the data referred to under point (c) thereof.~~

4. As regards the consultation of EES, ETIAS **with the exception of the ETIAS watchlist**, and VIS pursuant to paragraph 32, the retrieved data shall be limited to indicating refusals, **annulment or revocation** of a travel authorisation, refusals of entry, or decisions to refuse, annul or revoke a visa or residence permit **respectively**, which are based on security grounds.

In case of a hit in the SIS, the screening authority carrying out the search shall have access to the data contained in the alert.

- 4a. **As regards the consultation of the ECRIS-TCN system, the data retrieved shall be limited to convictions related to terrorist offences and other forms of serious criminal offences referred to in Article 5(1)(c) of Regulation (EU) 2019/816.**
5. **If necessary**, the Commission shall adopt implementing acts setting out the detailed procedure and specifications for retrieving data. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).

Article 12

Modalities for identification and security checks

1. The queries provided for in Article 10(2) and in Article 11(2) may be launched using, for queries related to EU information systems, **Europol data, Interpol Databases** ~~and the CIR~~, the European Search Portal in accordance with Chapter II of Regulation (EU) 2019/817 and with Chapter II of Regulation (EU) 2019/818².

² ~~Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration, OJ L 135, 22.5.2019, p. 85.~~

2. Where a ~~match~~**hit** is obtained following a query as provided for in Article ~~11(3)~~**11(2)** against data in one of the information systems, the ~~competent authority~~**screening authorities** shall have access to consult ~~the file~~**data** corresponding to that ~~match~~**hit** in the respective information system ~~in order to determine the risk to internal security as referred to in Article 11(1)~~**systems subject to the conditions laid down in the legal instruments governing such access.**
- 2a. **When a hit is obtained following a query against the SIS, the screening authorities shall carry out the procedures set out in Regulations (EU) 2018/1860, 2018/1861 or 2018/1862 including the consultation of the alert issuing Member State through the SIRENE Bureaux.**
- 2b. **Where a third-country national corresponds to a person whose data is recorded in the ECRIS-TCN and flagged in accordance with point (c) of Article 5(1) of Regulation (EU) 2019/816, the data may only be used for the purpose of the security check referred to in Article 11 of this Regulation and for the purpose of consultation of the national criminal records which shall be in accordance with Article 7c of Regulation 2019/816. National criminal records shall be consulted prior to the delivery of an opinion pursuant to Article 7c of that Regulation.**
3. Where a query as provided for in Article ~~11(3)~~**11(2)** reports a match against Europol data, **an automated notification, containing the data used for the query,**~~the competent authority of the Member State shall inform~~**be sent to Europol in accordance with Regulation (EU) 2016/794 in order for Europol to take, if needed, any appropriate follow-up**~~follow up~~**action, using the communication channels provided for in Regulation 2016/794**~~in accordance with the relevant legislation.~~

4. ~~Where a query~~**Queries of Interpol databases** as provided for in Article 11(3) ~~reports a match against the Interpol Travel Documents Associated with Notices database (Interpol TDawn11(2) shall be performed in accordance with Articles 9(5) and 72(1) of Regulation (EU), the competent authority of the Member State shall inform the Interpol National Central Bureau of the Member State that launched the query in order to take, if needed, any appropriate follow up action in accordance with the relevant legislation 2019/817. Where it is not possible to perform such queries in a way that no information is revealed to the owner of the Interpol alert, the screening shall not include the query of the Interpol databases .~~
- 4a. **When a hit is obtained in the ETIAS watchlist, the provisions of Article 35a of Regulation (EU) 2018/1240 shall apply.**
5. **If necessary**, the Commission shall adopt implementing acts to specify the procedure for cooperation between the authorities responsible for carrying out the screening, Interpol National Central Bureaux; **and** Europol national unit, ~~and ECRIS-TCN central authorities,~~ respectively, to determine the ~~risk~~**threat** to internal security. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).

Article 13

~~De-briefing~~**Screening form**

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

- (a) name, date and place of birth and ~~sex~~**gender**;
- (b) ~~initial~~ indication of nationalities **or statelessness**, countries of residence prior to arrival and languages spoken;
- (ba) the reason for which the screening was performed;**

- (c) ~~reason for unauthorised arrival, entry, and, where appropriate illegal stay or residence~~ **information on the preliminary health check carried out in accordance with Article 9(1), including information on whether the person made an application for international protection** where, based on the circumstances concerning the general state of each individual third-country national, no further health check was necessary;
- (cb) **relevant information on the preliminary vulnerability check carried out in accordance with Article 9(2), in particular any vulnerability or special reception or procedural needs identified;**
- (cc) **information as to whether the third-country national has made an application for international protection;**
- (cd) **information provided by the subject as to whether the third-country national has family members located on the territory of any Member State;**
- (ce) **whether the consultation of relevant databases in accordance with Article 11 resulted in a hit or no hit.**
- (cf) **whether the third country national has complied with its obligation to cooperate in accordance with Article 6a.**

Where available, the form shall include: (a) the reason for irregular arrival or entry; (b) information on routes travelled, including the point of departure, the places of previous residence, the third countries of transit and those where international protection may have been sought or granted as well as the intended destination within the Union; (ba) travel or identity document(s) the subject carried with them; (bb) any comments and other relevant information, including any related information in cases of suspected smuggling or trafficking in human beings.

The information in the screening form shall be recorded in such a way that it is amenable to administrative and judicial review during any ensuing asylum or return procedure.

It shall be specified whether the information referred to in point (a) and (b) is confirmed by the screening authorities or declared by the person concerned.

Information contained in the form shall be made available either in paper or electronic format to the person concerned. Information referred to in paragraph 1, point (ce) shall be redacted. Before the form is transmitted to the relevant authorities as referred to in Article 14, paragraphs 1, 2, 3 and 4, the person subject to the screening shall have the possibility to indicate that the information contained in the form is incorrect. The screening authorities shall record any such indication under the relevant information as referred to in this Article.

Article 14

~~Outcome~~ Completion of the screening

1. **Once the screening is completed or, at the latest, when the time limits set in Article 6 expire, third-country**~~The third-country~~ nationals referred to in Article 3(1) point (a) and (b) of this Regulation who **have not made an application for international protection shall be referred to the competent authorities to apply procedures respecting Directive (EU) 2008/115/EC (Return Directive), without prejudice to the application of Article 6(5) of Regulation (EU) 2016/399 [Schengen Borders Code].**

- ~~have not applied for international protection and~~
- ~~with regard to whom the screening has not revealed that they fulfil entry conditions set out in Article 6 of Regulation (EU) 2016/399,~~

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

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

The form referred to in Article 13 shall be transmitted to the relevant authorities to whom the third country national is being referred.

2. ~~Third-country nationals who made an application for international protection shall be referred to the authorities referred to in Article XY of Regulation (EU) No XXX/XXX [Asylum Procedure Regulation], together with the form referred to in~~³ **and Article 13 of this Regulation. On that occasion, the authorities conducting the screening**⁵ **who have made an application for international protection shall point in the de-briefing form to any elements which seem at first sight to be relevant to refer the third-country nationals concerned into the accelerated examination procedure or the border procedure**~~be referred to the authorities competent for registering the application for international protection.~~
3. ~~Where the third country national is to be relocated under the mechanism for solidarity established by~~^{in accordance with} Article XX of Regulation (EU) No XXXX/XXXX ~~[Dublin Regulation]~~^{XXX/XXX [AMMR]} **or with any other existing mechanism for solidarity**, the third-country national concerned shall be referred to the relevant authorities of the Member States concerned together with the form referred to in Article 13.
4. The third-country nationals referred to in Article 5, who have not ~~applied~~^{made an application} for international protection ~~and~~^{shall continue to} be subject to return procedures— respecting Directive 2008/115/EC.
6. ~~In respect of third-country nationals to whom Regulation EU No XXX/XXX [Eurodac Regulation] applies, the competent authorities shall take the biometric data referred to in Articles [10, 13, 14 and 14a] of that Regulation (EU) and shall transmit it in accordance with that Regulation.~~
7. ~~Where the third-country~~^{third-country} nationals referred to in Article(s) 3(1), **3(2)** and Article 5 **of this Regulation** are referred to an appropriate procedure regarding ~~asylum or return~~^{international protection}, **a procedure respecting Directive 2008/115/EC (Return Directive) or to the relevant authorities of another Member State concerning third-country nationals to be relocated**, the screening ends. Where not all the checks have been completed within the deadlines referred to in Article ~~6(3) and (5)~~⁶, the screening shall nevertheless end with regard to that person, who shall be referred to a relevant procedure.

- 7a. **Where, in accordance with national criminal law, a third-country national referred to in Articles 3 or 5 is subject to national criminal law procedures, or to an extradition procedure, the screening may not be applied. If the screening had already started, the form referred to in Article 13 shall be sent, with an indication of circumstances that ended the screening, to the authorities competent for the procedures respecting Directive (EC) 2008/115/EC (Return Directive), or, if the third-country national has made an international protection application, the authorities competent under national law for registering applications for international protection].**
- 7b. **The personal data stored pursuant to this Regulation shall be deleted in accordance with the timelines set out in the Eurodac Regulation.**

Article 15

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. **Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act, and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.**

Article 16

Amendments to Regulation (EC) No 767/2008

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

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

“2. Access to the VIS for ~~the purposes of consulting the data shall be reserved exclusively for the duly authorised~~**authorized** staff of :

- (a) ~~the national authorities of each Member State and the ETIAS Central Unit, of the national authorities of each Member State, including to duly authorised staff of~~
EU bodies which are competent for the purposes laid down in Articles 15 to 22, Articles 22g to 22m, and Article 45e of this Regulation;
- (b) ~~the ETIAS Central Unit and the ETIAS National Units, designated pursuant to Article~~**Articles 7 and 8 of Regulation (EU) 2018/1240, for the purposes laid down in Articles 18c and 18d of this Regulation;**
- (c) ~~the screening authorities of the European Parliament and of the Council, which are competent for the purposes laid down in Articles 15 to 22, for the duly authorised staff of~~
11 and 12 of that Regulation;
- (d) ~~the national authorities of each Member States~~**State** and of the Union ~~agencies,~~**bodies** which are competent for the purposes laid down in Articles 20 and 21 of Regulation 2019/817, and ~~for the competent authorities provided under Article 6(6), 20a and 21 of Regulation (EU) 2020/XXX of the European Parliament and of the Council~~³**2019/817.** Such access shall be limited according to the extent that the data are required for the performance of their tasks for those purposes, and proportionate to the objectives pursued.;

³ — ~~Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].²~~

- 2a. The screening authorities shall also have access to the VIS for consulting the data in order to perform a security check in accordance with Article 11(2) of that Regulation.

A search in accordance with this paragraph shall be performed by using the data referred to in Article 10(1) of Regulation (EU) 2020/xxxx [Screening Regulation] and the VIS shall return a hit where a decision to refuse, annul or revoke a visa, long-stay visa or residence permit based on the grounds provided for in Article 12(2)(a)(i),(v) and (vi) is recorded in a matching file.

Where a hit is obtained, the screening authorities shall have access to all relevant data in the file.”

Article 17

Amendments to Regulation (EU) 2017/2226

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

- (1) in Article 6(1), the following point ~~(l)~~ is added **(l) is inserted after point (k):**
- “(l) support the objectives of the screening established by Regulation (EU) 2020/XXX of the European Parliament and of the Council⁴, in particular for the checks provided under ~~Article 10~~ **Articles 10 to 12** thereof.”
- (2) Article 9 is amended as follows:
- (a) ~~paragraph 1 is replaced by the following~~ **the following paragraph is inserted after paragraph 2:**
- “2a. The screening authorities as defined in Article 2(11) of Regulation (EU) 2020/XXX shall have access to the EES to consult data”;

⁴ ~~Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].²~~

(aa) the following Article is inserted after Article 24:

“Article 24a

Access to data for the security check for the purposes of screening

The screening~~The competent~~ authorities referred to in Article 5(6)~~2(11)~~ of Regulation (EU) 2020/XXX shall have access to the EES to consult **the data in order to perform a security check in accordance with Article 11(2) of that Regulation.**

A search in accordance with this paragraph shall be performed by using the data referred to in Article 10(1) of Regulation (EU) 2020/XXX [Screening Regulation] and the EES shall return a hit where a refusal of entry record based on the grounds provided for in points B, D, H, I and J of Part B of Annex V to Regulation (EU) 2016/399 [Schengen Borders Code] is linked to a matching (individual) file~~data.~~;

Where a hit is obtained, the screening authority shall have access to all relevant data in the file.

If the individual file does not include any biometric data, the screening authorities may proceed to access the biometric data of that person and verify correspondence in VIS in accordance with Article 6 of Regulation (EC) No 767/2008.”

(b) paragraph 4 is replaced by the following:

“(4) Access to the EES data stored in the CIR shall be reserved exclusively for the duly ~~authorised~~**authorized** staff of the national authorities of each Member State and for the duly ~~authorised~~**authorized** staff of the Union agencies that are competent for the purposes laid down in Article 20, Article 20a and Article 21 of ~~Regulation~~**Regulations** (EU) 2019/817 **and 2019/818**. Such access shall be limited according to the extent that the data are required for the performance of their tasks for those purposes, and proportionate to the objectives pursued.”

(3) in Article 46(1), point (a) is replaced by the following:

“(a) The purpose of the access referred to in Article 9(2a) and 9(2b).”

Article 18

Amendments to Regulation (EU) 2018/1240

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

(1) In Article 4, ~~point (a) is replaced by the following~~ **a new point is inserted after point (e):**

~~“(a) contribute to a high level of security by providing for a thorough assessment of applicants as regards the risk they may pose to internal security, prior to their arrival at external border crossing points, and of persons subject to the screening referred to in “ (ea) “ support the purposes of Regulation (EU) 2020/XXX2020/xxxx of the European Parliament and of the Council⁵ [Screening Regulation], in order to determine whether there are factual indications or reasonable grounds based on factual indications to conclude that the presence of the person on the territory of the Member States poses a security risk;”~~

(1a) In paragraph 2 of Article 8 a new point (h) is added:

“(h) providing opinions in accordance with Article 35a.”

(2) ~~In Article 13, paragraph 5 is replaced by the following~~ **is amended as follows:**

(a) paragraph 4a is replaced by the following:

⁵ Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].²

"(4a) Access to the ETIAS identity data and travel document data stored in the CIR shall also be reserved exclusively for the duly authorised staff of the national authorities of each Member State and for the duly authorised staff of the Union agencies that are competent for the purposes laid down in Article 20, Article 20a and Article 21 of Regulation (EU) 2019/817. Such access shall be limited according to the extent that the data are required for the performance of their tasks for those purposes, and proportionate to the objectives pursued.";

(b) paragraph 4aa is inserted:

“(4aa) The screening authorities shall also have access to ETIAS to consult the data in order to perform the checks in accordance with Articles 10(1) and 11(2) of Regulation xxxx/xxxx (Screening Regulation).

A search in accordance with this paragraph shall be performed by using the data referred to in Article 10(1), points (a) and (b), of Regulation (EU) 2020/XXX [Screening Regulation] and ETIAS shall return a hit where a decision refusing, annulling or revoking a travel authorisation based on points (a), (b) and (e) of Article 37(1) or Article 28(7) is included in a matching application file.

Where a hit is obtained, the screening authorities shall have access to all relevant data in the file.

If the search carried in accordance with this paragraph indicates that there is a correspondence between the data used for the search and the data recorded in the ETIAS watchlist referred to in Article 34, the ETIAS National Unit or Europol having entered the data in the ETIAS watchlist shall be notified of the correspondence and shall be responsible for accessing the data in the ETIAS watchlist and for providing an opinion in accordance with Article 35a.

(c) Paragraph 5 is replaced by the following:

“5. Each Member State shall designate the competent national authorities referred to in paragraphs 1, 2, **4 and 4a**—and—4 of this Article, and the ~~competent~~**screening** authority referred to in Article ~~5(6)~~**2(11)** of Regulation (EU) 2020/XXX, and shall communicate a list of those authorities to eu-LISA without delay, in accordance with Article 87(2) of this Regulation. That list shall specify for which purpose the duly authorised staff of each authority shall have access to the data in the ETIAS Information System in accordance with paragraphs 1, 2, **4 and 4a**—and—4 of this Article.”

(3) The following Article 35a is inserted after Article 35:

“Article 35a

Tasks of the ETIAS National Unit and Europol regarding the ETIAS watchlist for the purpose of screening

1. In cases referred to in the second sub-paragraph of Article 13(4b), the ETIAS Central System shall send an automated notification to the ETIAS National Unit or Europol having entered the data into the ETIAS watchlist. Where the ETIAS National unit or Europol that entered the data into the watchlist consider that the third country national undergoing the screening might pose a threat to internal security, they shall immediately notify the respective screening authorities and provide a reasoned opinion to the Member State performing the screening, within two days of the receipt of the notification, in the following manner:

(a) the ETIAS national units shall inform the screening authorities through a secure communication mechanism, to be set up by eu-LISA, between the ETIAS National Units on the one part and the screening authorities on the other;

(b) Europol shall inform the screening authorities using the communication channels provided for in Regulation (EU) 2016/794. If no opinion is provided, it should be considered that there is no security risk.

2. The automated notification(s) referred to in paragraph 1 shall contain the data referred to in Article 11(2) of Regulation (EU) xxxx/yyyy (Screening) used for the query.”

(4) In Article 69(1), the following point (ea) is inserted after point (e):

“(ea) where relevant, a reference to queries entered in the ETIAS Central System for the purposes of Articles 10 and 11 Regulation (EU) XXX/YYYY (Screening), the hits triggered and the results of this query.”

Article 19

Amendments to Regulation (EU) 2019/817

Regulation (EU) 2019/817 is amended as follows:

(-1) In Article 7, paragraph 2 is replaced by the following:

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

(1) ~~In Article 17, paragraph 1 is replaced by the following~~ **is amended as follows:**

“(a) paragraph 1 is replaced by the following:

“A common identity repository (CIR), creating an individual file for each person that is registered in the EES, VIS, ETIAS, Eurodac or ECRIS-TCN containing the data referred to in Article 18, is established for the purpose of facilitating and assisting in the correct identification of persons registered in the EES, VIS, ETIAS, Eurodac and ECRIS-TCN in accordance with ~~Article~~ **Articles 20 and 20a of this Regulation**, of supporting the functioning of the MID in accordance with Article 21 and of facilitating and streamlining access by designated authorities and Europol to the EES, VIS, ETIAS and Eurodac, where necessary for the prevention, detection or investigation of terrorist offences or other serious criminal offences in accordance with Article 22.”

(b) paragraph 4 is replaced by the following:

“Where it is technically impossible because of a failure of the CIR to query the CIR for the purpose of identifying a person pursuant to Article 20 or for verifying or establishing the identity of a person pursuant to Article 20a of this Regulation, for the detection of multiple identities pursuant to Article 21 or for the purposes of preventing, detecting or investigating terrorist offences or other serious criminal offences pursuant to Article 22, the CIR users shall be notified by eu-LISA in an automated manner.”

(1a) In Article 18, paragraph 3 is replaced by the following:

“The authorities accessing the CIR shall do so in accordance with their access rights under the legal instruments governing the EU information systems, and under national law and in accordance with their access rights under this Regulation for the purposes referred to in Articles 20, 20a, 21 and 22.”

- (2) the following Article 20a is inserted **after Article 20**:

“Article 20a

Access to the common identity repository for **verification of identity** or identification
according to Regulation (EU) 2020/XXX

1. Queries of the CIR shall be carried out by the **screening authorities solely for the purpose of verifying the identity or** ~~designated competent authority as defined in Article 6(7) of Regulation (EU) 2020/XXX, solely for the purpose of~~ identifying a person according to Article 10 of that Regulation, provided that the ~~procedure~~**process** was initiated in the presence of that person.
2. Where the query indicates that data on that person are stored in the CIR, the ~~competent~~**screening** authority shall have access to consult the data referred to in Article 18(1) **of this Regulation** as well as to the data referred to in Article 18(1) of Regulation (EU) 2019/818 of the European Parliament and the Council.”

- (2a) **Article 24 is amended as follows:**

- (a) **paragraph 1 is replaced by the following:**

“1. Without prejudice to Article 46 of Regulation (EU) 2017/2226, Article 34 of Regulation (EC) No 767/2008 and Article 69 of Regulation (EU) 2018/1240, eu-LISA shall keep logs of all data processing operations in the CIR in accordance with paragraphs 2, 2a, 3 and 4 of this Article.”

- (b) **the following paragraph 2a is inserted after paragraph 2:**

“2a. eu-LISA shall keep logs of all data processing operations pursuant to Article 20a in the CIR. Those logs shall include the following:

- (a) the Member State launching the query;
- (b) the purpose of access of the user querying via the CIR;
- (c) the date and time of the query;
- (d) the type of data used to launch the query;
- (e) the results of the query.”

(c) in paragraph 5, the first sub-paragraph is replaced by the following:

“(5) Each Member State shall keep logs of queries that its authorities and the staff of those authorities duly authorised to use the CIR make pursuant to Articles 20, 20a, 21 and 22. Each Union agency shall keep logs of queries that its duly authorised staff make pursuant to Articles 21 and 22.”

Article 20

Evaluation

~~{Three}~~**Two** years after entry into force~~application~~, the Commission shall report on the implementation of the measures set out in this Regulation.}

~~No sooner than [five]~~**Five** years after the date of application of this Regulation, and every five years thereafter, the Commission shall carry out an evaluation of this Regulation. The Commission shall present a Report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. Member States shall provide the Commission all information necessary for the preparation of that report, at the latest six months before the ~~[five]~~**five** years’ time limit expires.

Article 21

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall start to apply 24 months from its entry into force.

The provisions laid down in Articles 10 to 12 related to queries to EU information systems, the CIR and the European Search Portal shall start to apply only once the individual relevant information systems, CIR and ESP enter into operation.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament

For the Council

The President

The President
