

Draft compromise 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

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.
2. Each Member State shall ~~establish~~ **provide for** an independent monitoring mechanism
 - 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;~~ **restrictive measures taken to ensure that the third country national remains at the disposal of the designated authorities.**
 - 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.

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

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

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

Article 8

Provision of information

1. Third-country nationals subject to the screening shall be succinctly informed about ~~the purpose and the modalities of the screening~~.
 - (a) the **purpose, elements, steps** and modalities of the screening as well as possible outcomes of the screening;
 - (b) the rights and obligations of third country nationals during the screening, including the obligation on them to remain in the designated facilities during the screening.
2. During the screening, they shall also, as appropriate, receive information on:
 - (a) the applicable rules on the conditions of entry for third-country nationals in accordance with Regulation (No) 2016/399 [Schengen Border 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) **the applicable rules on applying** ~~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 XXXXX [Return Directive];
 - (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];
 - (f) the information referred to in Article 13 of the Regulation (EU) 2016/679¹ [GDPR].

¹ 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 in writing and, ~~in exceptional circumstances~~, where necessary, orally using interpretation services. It shall be provided in an appropriate manner **in the case of vulnerable persons, taking into account the age and the gender of the person.**
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. **Such information may also be provided with the assistance of the EU agencies or based on the information developed by them, as appropriate.**

Article 9

Health checks and vulnerabilities

1. Third-country nationals submitted to the screening referred to in Article 3 shall be subject to a preliminary **health check** ~~medical examination~~ with a view to identifying any needs for immediate care or isolation on public health grounds, unless, based on the circumstances concerning the general state of the individual third-country nationals concerned and the grounds for directing them to the screening, the relevant competent authorities ~~are satisfied~~ **consider** that no preliminary ~~medical~~ **health check** screening is necessary. ~~In that case, they shall inform those persons accordingly.~~
2. Where relevant, it shall be checked whether persons referred to in paragraph 1 are in a vulnerable situation, **and collect information on possible special reception or procedural needs** ~~victims of torture or have special reception or procedural needs within the meaning of Article 20 of the [recast] Reception Conditions Directive.~~
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 the case of minors, support shall be given 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.~~

Identification and verification of identity

1. To the extent it has not yet occurred during the application of Article 8 of Regulation (EU) 2016/399, the identity of third-country nationals submitted to the screening pursuant to Article 3 or Article 5 shall be verified or established, by using, **where applicable, in particular the following data, 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** referred to in paragraph 1, the competent authorities shall query any relevant national databases as well as the common identity repository (CIR) referred to in Article 17 of Regulation (EU) 2019/817, **and the Schengen Information System (SIS) using the data referred to in paragraph 1.** ~~The biometric data of a third-country national taken live during the screening, as well as the identity data and, where available, travel document data shall be used to that end.~~
3. **Biometric data of a third-country national taken live shall be used for searches in the CIR.** 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 **or returns no result**, the query as referred to in paragraph 2 shall be carried out with the identity data of the third-country national, in combination with any ~~identity, travel or other document data~~, or with **any of the identity data provided by that third-country national referred to in paragraph 1(b).**
4. **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. A search with the biometric data of the third-country national in combination with any travel or other document data or with any of the data referred to in paragraph 1(b) shall in all cases be carried out in SIS.**
5. 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.
6. **This article is without prejudice to actions undertaken in line with national law with a view to establish the identity of the person concerned.**

Article 11

Security check

1. Third country nationals submitted to the screening pursuant to Article 3 or Article 5 shall undergo a security check to verify that they do not ~~constitute~~**pose** a threat to **public policy, internal security or international relations for any of the Member States**. 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 Article 8(3), point (a)(vi), of Regulation (EU) 2016/399, the competent authorities shall query relevant national and Union databases, in particular the Schengen Information System (SIS). T~~ 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 **relevant national and Union databases, in particular the Schengen Information System (SIS), the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS), including the ETIAS watch list referred to in Article 29–34 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, the Interpol Stolen and Lost travel documents database (Interpol SLTD) 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.**
- 4.3. As regards the consultation of EES, ETIAS and VIS pursuant to paragraph 3, the ~~retrieved data query~~ shall be limited to **indicating decisions to refusals-refuse, annul or revoke** of a travel authorisation, refusals of entry, or decisions to refuse, annul or revoke a visa or residence permit, which are based on security grounds.

The consultation of the ETIAS watchlist pursuant to paragraph 3 shall be in accordance with Article 12(5) and Article 35a of Regulation (EU) 2018/1240.
[The consultation of ECRIS-TCN shall be in accordance with Regulation (EU) .../... [Regulation on the Screening consequential amendments]].
- 5.4. 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 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 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. **When the hit is obtained following a query against the SIS, the competent authority shall consult the SIRENE Bureau of the alert issuing Member State in accordance with Regulation (EU) 2018/1861 and Regulation (EU) 2018/1862.**
2. Where a match is obtained following a query as provided for in Article 11(2) and (3) against data in one of the information systems, the competent authority shall have access to consult the file corresponding to that match in the respective information system in order to determine the risk to **public policy, internal security or international relations pursuant to as referred to in Article 11(1).**
3. Where a query as provided for in Article 11(3) reports a match against Europol data, the competent authority of the Member State shall inform Europol in order to take, if needed, any appropriate follow-up action in accordance with the relevant legislation.
4. Where a query as provided for in Article 11(3) reports a match against the Interpol Travel Documents Associated with Notices database (Interpol TDAWN) **or the Interpol Stolen and Lost Documents database**, 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.
5. **In accordance with Article 35a of Regulation (EU) 2018/1240, in the event of a hit in the ETIAS watchlist, the ETIAS National Unit or Europol having entered the data in the ETIAS watchlist shall be automatically notified and shall provide a reasoned opinion to the competent authority performing the Screening within two days of the receipt of the notification, in case of screening pursuant to Article 5, or three days of the receipt of the notification in other cases. The absence of a reply within that deadline shall mean that there are no security risks to be taken into consideration.**
6. 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 to **public policy, internal security or international relations**. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).

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.

Article 13

De-briefing Screening form

1. 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, **at least, the following data:**
 - (a) name, date and place of birth and sex;
 - (b) initial **and subsequent** indication of nationalities, countries of residence prior to arrival and languages spoken;
 - (c) **information on vulnerability identified during the screening.**
2. **Where available, the following data should be included:**
 - (ea) reason for unauthorised arrival, entry, and, where appropriate illegal stay or residence, including information on whether the person made an application for international protection;
 - (eb) information obtained on routes travelled, including the point of departure, the places of previous residence, the third countries of transit and those where **application for international protection** may have been **made sought** or granted as well as the intended destination within the Union **and presence and validity of travel documents**;
 - (ec) information on assistance provided by a person or a criminal organisation in relation to unauthorised crossing of the border, and any related information in cases of suspected smuggling.
 - (d) **Any other relevant information.**

Article 14

Outcome of the screening

1. The third country nationals referred to in Article 3(1) point (a) and (b) of this Regulation who
 - have not **made an application** ~~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 Article 13 of this Regulation. ~~On that occasion, the authorities conducting the screening shall point in the de-briefing form to any elements which seem at first sight to be relevant to refer the third-country nationals concerned into the accelerated examination procedure or the border procedure.~~
3. Where the third country national is to be relocated under the mechanism for solidarity established by Article XX of Regulation (EU) No XXXX/XXXX [Dublin Regulation], 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 for international protection ~~and~~
 - ~~— with regard to whom the screening has not revealed that they fulfil the conditions for entry and stay~~shall be subject to return procedures respecting Directive 2008/115/EC.
5. Where third-country nationals submitted to the screening in accordance with Article 5 make an application for international protection as referred to in Article 25 of Regulation (EU) No XXX/XXX (Asylum Procedures Regulation), paragraph 2 of this Article shall apply accordingly.
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 nationals referred to in Article(s) 3(1) and Article 5 are referred to an appropriate procedure regarding asylum, **refusal of entry** or return, the screening ends. Where not all the checks have been completed within the deadlines referred to in Article 6(3) and (5), the screening shall nevertheless end with regard to that person, who shall be referred to a relevant procedure. **Where necessary, the checks set forth under this Regulation may continue within the subsequent procedure.**

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 consulting the data shall be reserved exclusively for the duly authorised staff of:
 - (a) the national authorities of each Member State and of the EU bodies which are competent for the purposes laid down in Articles 15 to 22, Articles 22g to 22m, and Article 45e;
 - (b) the ETIAS Central Unit and the ETIAS National Units, designated pursuant to Articles 7 and 8 of Regulation (EU) 2018/1240, for the purposes laid down in Articles 18c and 18d of this Regulation and in Regulation (EU) 2018/1240;
 - (c) the ~~competent~~ **screening** authorities, designated pursuant to Article 6(7) of Regulation (EU) 2020/XXX [screening regulation], for the purposes laid down in Articles 10 to 12 of that Regulation;
 - (d) the national authorities of each Member State and of the Union bodies which are competent for the purposes laid down in Articles 20 and 21 of Regulation (EU) 2019/817.

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

Article 17

Amendments to Regulation (EU) 2017/2226

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

- (1) in Article 6(1), the following point (k) is inserted after point (j):

“(k) support the objectives of the screening established by Regulation (EU) 2020/XXX of the European Parliament and of the Council³, in particular for the checks provided under Article 10 thereof.”
- (2) Article 9 is amended as follows:
 - (a) the following paragraph 2a is inserted after paragraph 2:

“2a. The competent screening authorities referred to in Article 6(7) of Regulation (EU) 2020/XXX shall have access to the EES to consult data.”;
 - (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 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 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) the following Article 24a is inserted after Article 24:

“Article 24a

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

1. For the purposes of verifying or establishing the identity of a person pursuant to Article 10 of Regulation (EU) XXX/YYYY (Screening) and the carrying out of security checks pursuant to Articles 11 and 12 of that Regulation, competent the screening authorities referred to in Article 6(7) of that same Regulation shall have access to EES data to the extent necessary to be able to carry out searches using the data referred to in Article 10(1) of Regulation (EU) XXX/YYYY (Screening) against the data stored in the EES in accordance with points (a) to (d) of Article 16(1) and points (a) to (c) of Article 17(1) of this Regulation.

³ See footnote of the proposal

2. If the search carried out pursuant to paragraph 1 indicates that data on the person are stored in the EES, the competent authority referred in paragraph 1 shall be given access to the data of the individual file, the entry/exit records and refusal of entry records linked to it.

If the individual file referred to in the first subparagraph does not include any biometric data, the competent 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.”

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

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

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) contribute to a high level of security by providing for a thorough security risk assessment of applicants, prior to their arrival at external border crossing points, and of persons subject to the screening referred to in Regulation (EU) 2020/XXX [Screening Regulation], in order to determine whether there are factual indications or reasonable grounds based on factual indications to conclude that the presence of the person on the territory of the Member States poses a security risk;”

- (2) In paragraph 2 of Article 8 a new point (h) is added:
(h) providing opinions in accordance with Article 35a.

- (3) Article 13 is amended as follows:

- (a) the following paragraph 4b is inserted after paragraph 4a:

“4b. For the purposes of Articles 10 to 12 of Regulation (EU) XXX/YYYY (Screening), competent authorities referred to in Article 6(7) of that Regulation, shall have access to the data in the ETIAS Central System to the extent necessary to be able to carry out searches using the data referred to in Article 10(1)(a) and (b) of that Regulation against the data contained in the ETIAS Information System.

If the search carried out pursuant to paragraph 1 reveals a match, the competent authorities shall have ‘read-only’ access, to the ETIAS applications files stored in the ETIAS Central system.

If the search carried out pursuant to paragraph 1 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 watchlist shall be notified in accordance with Article 35a of this Regulation.”

(b) 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 of this Article, and the ~~competent~~ **screening** authority referred to in Article 6(7) 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 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 the screening procedure

1. In cases referred to in the third paragraph of Article 13(4b), the ETIAS Central System shall send an automated notification to the ETIAS National Unit(s) or Europol having entered those data in the ETIAS watchlist.
2. Within ~~4~~ **3** days of the receipt of the notification, the ETIAS National Unit(s) or Europol shall provide a reasoned opinion to the Member State performing the Screening, as to whether the third country national undergoing the Screening poses a security threat. **If no opinion is provided, it should be considered that there is no security threat.**
3. ~~The reasoned opinion shall be provided through a secure notification mechanism to be set up by eu-LISA between the ETIAS National Units and Europol on the one part, and the competent authorities (of the Screening) on the other.~~

In case the ETIAS National Unit(s) or Europol having entered those data in the ETIAS watchlist consider the third country national undergoing the Screening poses a security threat, it can inform the competent authorities in any appropriate manner.

4. The automated notification(s) referred to in paragraph 1 shall contain the data referred to in Article 10(1) 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) Article 17 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 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.”

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

“Article 20a

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

1. Queries of the CIR shall be carried out by the designated competent authority as referred to in Article 6(7) of Regulation (EU) yyyy/XXX (Screening), solely for the purpose of verifying or establishing the identity of a person according to Article 10 of that Regulation, provided that the procedure 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 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.”

(3) in Article 24, the following paragraph 2a is inserted after paragraph 2:

(a) Paragraph 1 is replaced by the following:

‘1. Without prejudice to Article 29 of Regulation (EU) 2019/816, 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.”

Article 19a

Amendments to Regulation (EU) 2019/818

Regulation (EU) 2019/818 is amended as follows:

(1) Article 17 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 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.

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

“Article 20a

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

1. Queries of the CIR shall be carried out by the designated competent authority as referred to in Article 6(7) of Regulation (EU) YYYY/XXXX (Screening), solely for the purpose of verifying or establishing the identity of a person according to Article 10 of that Regulation, provided that the procedure 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 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) 2019/817 of the European Parliament and the Council.”~~

~~(3) in Article 24, 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.”~~

Article 20

Evaluation

[Three years after entry into force, the Commission shall report on the implementation of the measures set out in this Regulation.]

No sooner than [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] 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 6 months from its entry into force.

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



Council of the European Union
General Secretariat

**Interinstitutional files:
2020/0278(COD)**

Brussels, 05 February 2021

WK 1601/2021 INIT

LIMITE

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COMIX

WORKING PAPER

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WORKING DOCUMENT

From:	Presidency
To:	Working Party on Frontiers
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

In view of the Informal VTC of the members of the Working Party on Frontiers, delegations will find enclosed a Presidency compromise proposal.

This document contains an amended text of Articles 7 - 21 of the Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817. Changes to the original text in regard to Articles 7-14 (as contained in document ST 11224/20) have been placed in **bold** or marked with ~~strikethrough~~.

Changes to the previous version of Articles 15-21, as discussed under the DE Presidency, have also been placed in **bold** or marked with ~~strikethrough~~.

Delegations are also informed that two new definitions will be added to Article 2, namely of "vulnerable persons" and "screening authority". In addition, a new article on "Obligations" will also be inserted into the next compromise text.

WK 1601/2021 INIT

LIMITE

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