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General Secretariat

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WORKING DOCUMENT

From:	Presidency
To:	Delegations
N° prev. doc.:	16639/24; WK 16156/24 + ADD 1; WK 972/2025; WK 1348/2025
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a temporary derogation from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 as regards a progressive start of operations of the Entry/Exit System - draft Presidency compromise text

Following the 6 February 2025 JHA Counsellors meeting and based on the comments we received, the Presidency has prepared, in consultation with the Commission and the Council Legal Service, a second compromise text for your examination. We will discuss this proposal during the next JHA Counsellors (IXIM + Frontiers) meeting, next Monday (17th February), starting at 10:00. The Presidency would like to stress again that it is particularly important to ensure that the EES starts operating as soon as possible. At the same time, we want to sincerely thank you for the constructive approach, you have demonstrated.

In this second compromise proposal, we managed to include most of the changes, requested by you. Changes were introduced in the preamble adding that the high-level roll-out plan should confirm performance and availability targets of the central system as well as the strategy regarding eventual functional minor, major and blocking defects and be adopted by the eu-Lisa Management Board.

For the national roll-out plans - since previously introduced changes were not accepted by most MS- we went back to the initial wording, and added some small changes to the preamble were introduced in this area.

About the data gathered in the progressive start, we clarified in the recital that entry and exit records created during the progressive start of operation should not be used for automated consultation by ETIAS. The time of partial suspension of 6 hours was extended to 12 hours.

Some proposals were not considered, since we felt that these could lead - in practice- to an extension of 180 days progressive period or could cause more gaps in the EES.

We believe that the attached text is a fair balance between countries who want to start fully from day one and those who want to proceed progressively.

Looking forward to our discussion.

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a temporary derogation from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 as regards a progressive start of operations of the Entry/Exit System

2024/0315(COD)
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07-02-2025 at 10h47

	Commission Proposal	Compromise text proposal
Formula		
1	2024/0315 (COD)	2024/0315 (COD)
Document Stage		
2	Proposal for a	Proposal for a
Document Type		
3	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
Document Purpose		
4	on a temporary derogation from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 as regards a progressive start of operations of the Entry/Exit System	on a temporary derogation from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 as regards a progressive start of operations of the Entry/Exit System
Formula		
5	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Citation 1		
6	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2) points (b) and (d) and Article 87(2) point (a), thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2) points (b) and (d) and Article 87(2) point (a), thereof,
Citation 2		
7	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,
Citation 3		

	Commission Proposal	Compromise text proposal
8	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,
Citation 4		
9	Acting in accordance with the ordinary legislative procedure ¹ , 1. [placeholder] Position of the European Parliament of [date to be added after agreement] and decision of the Council of [date to be added after agreement].	Acting in accordance with the ordinary legislative procedure ¹ , 1. [placeholder] Position of the European Parliament of [date to be added after agreement] and decision of the Council of [date to be added after agreement].
Formula		
10	Whereas:	Whereas:
Recital 1		
11	(1) Article 66(1) of Regulation (EU) 2017/2226 of the European Parliament and of the Council ¹ , establishing the Entry/Exit System ('EES'), provides that the Commission is to decide the date from which the EES is to start operations, provided that certain conditions are met. 1. Regulation 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20, ELI: http://data.europa.eu/eli/reg/2017/2226/oj).	(1) Article 66(1) of Regulation (EU) 2017/2226 of the European Parliament and of the Council ¹ , establishing the Entry/Exit System ('EES'), provides that the Commission is to decide the date from which the EES is to start operations, provided that certain conditions are met. 1. Regulation 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20, ELI: http://data.europa.eu/eli/reg/2017/2226/oj).
Recital 2		
12	(2) However, the Commission has not received all notifications pursuant to Article 66(1), point (c), of Regulation (EU) 2017/2226, which is one of the conditions for deciding on the start of operations of the EES.	(2) However, the Commission has not received all notifications pursuant to Article 66(1), point (c), of Regulation (EU) 2017/2226, which is one of the conditions for deciding on the start of operations of the EES. <u>Moreover, a full start of operations overnight could constitute a risk factor for the resilience of the system as a whole.</u>
Recital 3		
13	(3) Regulation (EU) 2017/2226 only allows for a full start of operations, requiring all Member States to start using the EES fully for all third-country nationals subject to registration in the EES and to use the EES simultaneously at all their border crossing points.	(3) Regulation (EU) 2017/2226 only allows for a full start of operations, requiring all Member States to start using the EES fully for all third-country nationals subject to registration in the EES and to use the EES simultaneously at all their border crossing points.
Recital 4		

Commission Proposal		Compromise text proposal	
14	(4) To provide Member States with the necessary flexibility to start using the EES according to their level of readiness and facilitate technical and operational adjustments when starting to operate the EES, it is necessary to lay down rules for a progressive start of operations of the EES. To ensure these adjustments reflect potential travel flows and seasonal peaks, such a progressive start should have a duration of 180 calendar days.		(4) To provide Member States with the necessary flexibility to start using the EES according to their level of readiness and <u>to</u> facilitate technical and operational adjustments when starting to operate the EES, it is necessary to lay down rules for a progressive start of operations of the EES. To ensure these adjustments reflect potential travel flows and seasonal peaks, <u>while considering that the progressive start of operations may also have some impact for the Member States in terms of increased workload at the border crossing points,</u> such a progressive start should have a <u>limited</u> duration of 180 calendar days.
Recital 4a			
14a			
Recital 5			
15	(5) To enable a progressive start of operations of the EES it is therefore necessary to derogate from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 of the European Parliament and of the Council ¹ ('Schengen Borders Code'). Other rules set out in Regulation (EU) 2017/2226 that are not affected by this Regulation apply as provided for in that Regulation. In particular, the data recorded in the EES throughout the progressive start of operations follow the rules set out in Regulation (EU) 2017/2226 and are considered reliable and accurate. ¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1, ELI: http://data.europa.eu/eli/reg/2016/399/oj).		(5) To enable a progressive start of operations of the EES it is therefore necessary to derogate from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 of the European Parliament and of the Council ¹ ('Schengen Borders Code'). Other rules set out in Regulation (EU) 2017/2226 that are not affected by this Regulation apply as provided for in that Regulation. In particular, the data recorded in the EES throughout the progressive start of operations follow the rules set out in Regulation (EU) 2017/2226 and are considered reliable and accurate. <u>In addition, this Regulation does not affect the validity of the notifications already provided by Member States under Article 66(1) of Regulation (EU) 2017/2226.</u> ¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p. 1, ELI: http://data.europa.eu/eli/reg/2016/399/oj).
Recital 6			
16	(6) Member States should progressively start operating the EES to record, on entry and exit, the data of third-country nationals subject to registration in the EES at one or more border crossing points. If possible and applicable, Member States should include a combination of air, land and sea border crossing points. To ensure a controlled launch of the EES and to better manage and avoid potential long waiting times at the borders,		(6) Member States should progressively start operating the EES to record, on entry and exit, the data of third-country nationals subject to registration in the EES at one or more <u>border crossing points, and at one or more lanes of such</u> border crossing points. If possible and applicable, Member States should include a combination of air, land and sea border crossing points. To ensure a controlled launch of the EES and to better manage and

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	<p>where relevant, Member States should deploy all the functionalities of the EES progressively and register the data of all third-country nationals subject to registration in the EES gradually. To ensure a coordinated approach, the progressive start of operations should be implemented in phases, which should set the minimum requirements to be reached by Member States. Member States will have the possibility to accelerate implementation at national level or start operating the EES fully from the beginning of the progressive approach.</p>	<p>avoid potential long waiting times at the borders, where relevant, Member States should deploy all the functionalities of the EES progressively and register the data of all third-country nationals subject to registration in the EES gradually. To ensure a coordinated approach, the progressive start of operations should be implemented in phases, which should set the minimum requirements to be reached by Member States. Member States will have the possibility to accelerate implementation at national level or start operating the EES fully from the beginning of the progressive approach.</p>
Recital 7		
17	<p>(7) To facilitate a smooth deployment of the EES, the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) should develop a high-level roll-out plan to provide guidance to Member States and Union agencies on planning and executing the EES deployment during its progressive start of operations and should submit it to the Commission, Member States and Union agencies. This plan should include the capacity limits of the Central System as specified by eu-LISA for each phase of deployment. Member States' decisions to start or advance operations should take into account the capacity of the Central System as outlined in the high-level roll-out plan.</p>	<p>(7) To facilitate a smooth deployment of the EES, the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) should develop a high-level roll-out plan to provide guidance to Member States and Union agencies on planning and executing the EES deployment during its progressive start of operations and should submit it to the Commission, Member States and Union agencies. This plan should include the capacity limits <u>confirm performance and availability targets</u> of the central system as specified by eu-LISA for each phase of deployment <u>well as the strategy regarding eventual functional minor, major and blocking defects and be adopted by the eu-LISA Management Board</u>. Member States' decisions to start or advance operations should take into account the capacity of the Central System as outlined in the high-level roll-out plan.</p>
Recital 8		
18	<p>(8) To facilitate a smooth deployment of the EES, Member States should develop national roll-out plans in consultation with the Commission and eu-LISA. For each of the phases of the progressive start of the EES operations, the national roll-out plans should include the information on the set thresholds and requirements, in particular: (i) the date from which the EES will operate at each border crossing point; (ii) the percentage of the estimated number of border crossings to be registered in the EES out of the total number of third-country nationals subject to registration in the EES; and (iii) where applicable, the biometric functionalities to be operated at each selected border crossing point. When preparing their respective national roll-out plans, Member States are encouraged to</p>	<p>(8) To facilitate a smooth deployment of the EES, Member States should develop national roll-out plans in consultation with the Commission and eu-LISA. For each of the phases of the progressive start of the EES operations, the national roll-out plans should include the information on the set thresholds and requirements, in particular: (i) the <u>expected</u> date from which the EES will operate at each-border crossing point<u>points</u>; (ii) the <u>expected</u> percentage of the estimated number of border crossings to be registered in the EES out of the total number of third-country nationals subject to registration in the EES; and (iii) where applicable, the biometric functionalities, <u>expected</u> to be operated at each-selected-border crossing point<u>points</u>. When preparing their respective national roll-out plans,</p>

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	<p>appropriately coordinate with the operators of infrastructure where border crossing points are located. To monitor compliance with the progressive start of operations, Member States should provide the Commission and eu-LISA monthly reports on the implementation of their roll-out plans. Such monthly reports should include corrective measures, where necessary, to ensure compliance with the progressive start of operations.</p>	<p>Member States are encouraged to appropriately coordinate with the operators of infrastructure where border crossing points are located. To monitor compliance with the progressive start of operations, Member States should provide the Commission and eu-LISA monthly reports on the implementation of their roll-out plans. Such monthly reports should include corrective measures, where necessary, to ensure compliance with the progressive start of operations.</p>
Recital 9		
19	<p>(9) Due to the progressive start of operations of the EES and possible incompleteness of the data recorded in the EES, travel documents of third-country nationals should be systematically stamped on entry and exit during the progressive start of operations of the EES. National authorities should take into account the possible incompleteness of entry/exit records or of refusal of entry records and should consider stamps as prevailing over the information registered in the EES. In addition, when providing information to third-country nationals about the maximum remaining duration of their authorised stay, national authorities should base their assessment on the stamps affixed in the travel documents. The data recorded in the EES should prevail in case a stamp is missing.</p>	<p>(9) Due to the progressive start of operations of the EES and <u>Considering the</u> possible incompleteness of the data recorded in <u>the EES during the progressive start of operations of</u> the EES, travel documents of third-country nationals should be systematically stamped on entry and exit during the progressive start of operations of the EES. National authorities should take into account the possible incompleteness of entry/exit records or of refusal of entry records. <u>In case there is no relevant EES data, they and</u> should consider stamps as prevailing over the information registered in the EES. In addition, when providing information to third-country nationals about the maximum remaining duration of their authorised stay, national authorities. In case a stamp is missing, they should <u>base their assessment on the stamps affixed in the travel documents. consider</u> the data recorded in the EES should prevail as prevailing. In case <u>of a discrepancy between the individual file containing biometric data and the stamp, they should consider the EES data as prevailing. In case of a discrepancy between the individual file without biometric data and the</u> stamp <u>or in cases referred to in Article 16(4) of Regulation (EU) 2017/2226, they should decide, on a case by case basis, whether the stamp or the EES data is prevailing</u> is missing.</p>
Recital 10		
20	<p>(10) Considering that the data registered in the EES during the progressive start of operations of the EES might be incomplete, national authorities should not take into account the results provided by the automated calculator on the maximum remaining duration of the authorised stay of third-country nationals registered in the EES. Similarly, when carrying out their tasks, national authorities should not take into account the automated mechanism to identify or flag the lack of exit</p>	<p>(10) Considering that the data registered in the EES during the progressive start of operations of the EES might be incomplete, national authorities should not take into account the results provided by the automated calculator on the maximum remaining duration of the authorised stay of third-country nationals registered in the EES. Similarly, when carrying out their tasks, national authorities should not take into account the automated mechanism to identify or flag the lack of exit</p>

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	records following the date of expiry of an authorised stay or the records for which the maximum duration of authorised stay was exceeded, generating lists of persons identified as overstayers.	records following the date of expiry of an authorised stay or the records for which the maximum duration of authorised stay was exceeded, generating lists of persons identified as overstayers.
Recital 11		
21	(11) To provide Member States with the necessary time to adjust to the start of the EES, for the first 60 calendar days of the progressive start of operations, the use of biometric functionalities at border crossing points should not be mandatory. No later than the 90 th calendar day after the progressive start of operations, Member States should operate the EES with biometric functionalities at least at half of their border crossing points. Providing biometric data should not be an entry condition for third-country nationals subject to registration in the EES at the border crossing points where the EES is operated without biometric functionalities.	(11) To provide Member States with the necessary time to adjust to the start of the EES, for the first 60 calendar days of the progressive start of operations, the use of biometric functionalities at border crossing points should not be mandatory. No later than the 90 th calendar day after the progressive start of operations, Member States should operate the EES with biometric functionalities at least at half of their border crossing points. Providing biometric data should not be an entry condition for third-country nationals subject to registration in the EES at the border crossing points where the EES is operated without biometric functionalities.
Recital 12		
22	(12) To accommodate the need to progressively deploy the EES with biometric functionalities at some border crossing points, the biometric verification of third-country nationals subject to registration in the EES should only be carried out at the border crossing points at which the EES is operated with biometric functionalities.	(12) To accommodate the need to progressively deploy the EES with biometric functionalities at some border crossing points, the biometric verification of third-country nationals subject to registration in the EES should only be carried out at the border crossing points at which the EES is operated with biometric functionalities.
Recital 13		
23	(13) To ensure coherence of the operations of the interoperability between the Visa Information System (VIS) established by Regulation (EC) No 767/2008 of the European Parliament and of the Council ¹ and the EES, the VIS should only be accessed directly at those border crossing points at which the EES is not operated. At the border crossing points at which the EES is operated, border authorities should make use of the interoperability between the EES and the VIS. ¹ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60, ELI: http://data.europa.eu/eli/reg/2008/767/oj).	(13) To ensure coherence of the operations of the interoperability between the Visa Information System (VIS) established by Regulation (EC) No 767/2008 of the European Parliament and of the Council ¹ and the EES, the VIS should only be accessed directly at those border crossing points at which the EES is not operated. At the border crossing points at which the EES is operated, border authorities should make use of the interoperability between the EES and the VIS. ¹ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60, ELI: http://data.europa.eu/eli/reg/2008/767/oj).
Recital 14		

	Commission Proposal	Compromise text proposal
24	(14) Third-country nationals whose data are to be recorded in the EES should be informed about their rights and obligations regarding the processing of their data in the form of a template as provided in Article 50(5) of Regulation (EU) 2017/2226. The information to be provided to third-country nationals subject to the EES registration should refer to the progressive start of operations of the EES. Third-country nationals should be informed in the template of their obligation to provide biometric data at border crossing points where it constitutes an entry condition. They should be made aware in the template of the consequences of not providing biometric data. They should be informed in the template that it will not be possible for them to verify the remaining duration of the authorised stay by automated means.	(14) Third-country nationals whose data are to be recorded in the EES should be informed about their rights and obligations regarding the processing of their data in the form of a template as provided in Article 50(5) of Regulation (EU) 2017/2226. The information to be provided to third-country nationals subject to the EES registration should refer to the progressive start of operations of the EES. Third-country nationals should be informed in the template of their obligation to provide biometric data at border crossing points where it constitutes an entry condition. They should be made aware in the template of the consequences of not providing biometric data. They should be informed in the template that it will not be possible for them to verify the remaining duration of the authorised stay by automated means.
Recital 15		
25	(15) To reflect the progressive start of operations of the EES, the Commission should introduce relevant updates on the EES website.	(15) To reflect the progressive start of operations of the EES, the Commission should introduce relevant updates on the EES website.
Recital 16		
26	(16) The aim of raising awareness among third-country nationals on their specific rights and obligations would be best achieved if Member States customise the implementation of the campaign based on how the EES will operate at their borders at which the EES is operated in accordance with Article 4 of Regulation (EU) 2017/2226. The information materials developed by the Commission with the support of Member States in the context of Article 51 of Regulation (EU) 2017/2226 should therefore be adapted to carry out the information campaign accompanying the progressive start of operations.	(16) The aim of raising awareness among third-country nationals on their specific rights and obligations would be best achieved if Member States customise the implementation of the campaign based on how the EES will operate at their borders at which the EES is operated in accordance with Article 4 of Regulation (EU) 2017/2226. The information materials developed by the Commission with the support of Member States in the context of Article 51 of Regulation (EU) 2017/2226 should therefore be adapted <u>by the Commission</u> to carry out the information campaign accompanying the progressive start of operations, <u>with the support of Member States</u> .
Recital 17		
27	(17) During the progressive start of operations of the EES, the web service will not enable third-country nationals to electronically verify the exact duration of their authorised stay.	(17) During the progressive start of operations of the EES, the web service will not enable third-country nationals to electronically verify the exact duration of their authorised stay.
Recital 18		
28	(18) This Regulation does not affect the obligations of air carriers, sea carriers and international carriers transporting groups overland by coach	(18) This Regulation does not affect the obligations of air carriers, sea carriers and international carriers transporting groups overland by coach

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	<p>as set out in Article 26(1) of the Convention implementing the Schengen Agreement¹ and Council Directive 2001/51/EC.² In this respect, carriers should verify the stamps affixed in travel documents. To ensure effective communication with carriers about the distinct application of the EES at the border crossing points, ultimately benefiting travellers, it is crucial that Member States are transparent about the deployment of the EES at their border crossing points.</p> <p>1. Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ('the Convention implementing the Schengen Agreement') (OJ L 239, 22.9.2000, p. 19, ELI: http://data.europa.eu/eli/convention/2000/922/oj).</p> <p>2. Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (OJ L 187, 10.7.2001, p. 45, ELI: http://data.europa.eu/eli/dir/2001/51/oj).</p>	<p>as set out in Article 26(1) of the Convention implementing the Schengen Agreement¹ and Council Directive 2001/51/EC.² In this respect, carriers should verify the stamps affixed in travel documents. To ensure effective communication with carriers about the distinct application of the EES at the border crossing points, ultimately benefiting travellers, it is crucial that Member States are transparent about the deployment of the EES at their border crossing points.</p> <p>1. Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ('the Convention implementing the Schengen Agreement') (OJ L 239, 22.9.2000, p. 19, ELI: http://data.europa.eu/eli/convention/2000/922/oj).</p> <p>2. Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (OJ L 187, 10.7.2001, p. 45, ELI: http://data.europa.eu/eli/dir/2001/51/oj).</p>
Recital 19		
29	<p>(19) Article 22 of Regulation (EU) 2017/2226 and Article 12a of Regulation (EU) 2016/399 provide for a transitional period and transitional measures referring to the start of operations of the EES. It is necessary to derogate from those Articles to ensure that the transitional period and the transitional measures apply only as of the end of the progressive start of operations. That derogation should cease to apply 5 years and 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.</p>	<p>(19) Article 22 of Regulation (EU) 2017/2226 and Article 12a of Regulation (EU) 2016/399 provide for a transitional period and transitional measures referring to the start of operations of the EES. It is necessary to derogate from those Articles to ensure that the transitional period and the transitional measures apply only as of the end of the progressive start of operations. That derogation should cease to apply 5 years and 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.</p>
Recital 20		
30	<p>(20) To ensure that national authorities and EU agencies, in the performance of their tasks, avoid taking decisions exclusively based on data registered in the EES, they should take into account that individual files registered in the EES may contain incomplete data sets. That derogation should cease to apply 5 years after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226 to reflect the 5-year retention period for data sets for which the exit record is missing as set out in Article 34(3) of that Regulation.</p>	<p>(20) To ensure that national authorities and EU agencies, in the performance of their tasks, avoid taking decisions exclusively based on data registered in the EES, they should take into account that individual files registered in the EES may contain incomplete data sets. That derogation should cease to apply 5 years after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226 to reflect the 5-year retention period for data sets for which the exit record is missing as set out in Article 34(3) of that Regulation. <u>Entry and exit records created during the progressive start of operation should</u></p>

	Commission Proposal	Compromise text proposal
		<u><i>not be used for automated reporting, nor for automated processes, including automated consultation from ETIAS.</i></u>
Recital 21		
31	(21) When ensuring compliance with the provisions in Regulation (EU) 2017/2226 on the amendment of data and advance data erasure, Member States should complete the incomplete data to the extent permitted by the limited availability of the sets of data registered in the EES during the progressive start of operations.	(21) When ensuring compliance with the provisions in Regulation (EU) 2017/2226 on the amendment of data and advance data erasure, Member States should complete the incomplete data to the extent permitted by the limited availability of the sets of data registered in the EES during the progressive start of operations.
Recital 22		
32	(22) The European Border and Coast Guard Agency should refrain from using data registered in the EES during the progressive start of operations for carrying out risk analyses and vulnerability assessments due to the incompleteness of the data that could lead to misleading risk and vulnerability assessments.	(22) The European Border and Coast Guard Agency should refrain from using data registered in the EES during the progressive start of operations for carrying out risk analyses and vulnerability assessments due to the incompleteness of the data that could lead to misleading risk and vulnerability assessments.
Recital 23		
33	(23) To ensure effective management of the external borders during the progressive start of operations of the EES, at the border crossing points at which the EES is not operated, border checks should be carried out in accordance with Regulation (EU) 2016/399 as applicable [the day before the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226]. At the border crossing points at which the EES is operated, border checks should be carried out in accordance with Regulation (EU) 2017/2226 and the Schengen Borders Code. However, specific derogations from these Regulations should apply with regards to the verification at the border crossing points at which the EES is operated without biometric functionalities to enable the progressive start of operations. This should happen without prejudice to verifications of visa holders by using fingerprints, in accordance with Regulation (EC) 787/2008.	(23) To ensure effective management of the external borders during the progressive start of operations of the EES, at the border crossing points at which the EES is not operated, border checks should be carried out in accordance with Regulation (EU) 2016/399 as applicable [the day before the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226]. At the border crossing points at which the EES is operated, border checks should be carried out in accordance with Regulation (EU) 2017/2226 and the Schengen Borders Code. However, specific derogations from these Regulations should apply with regards to the verification at the border crossing points at which the EES is operated without biometric functionalities to enable the progressive start of operations. This should happen without prejudice to verifications of visa holders by using fingerprints, in accordance with Regulation (EC) 787/2008 <u>767/2008</u> .
Recital 24		
34	(24) To enable an effective adjustment of technical and organisational arrangements during the progressive start of operations of the EES in each	(24) To enable an effective adjustment of technical and organisational arrangements during the progressive start of operations of the EES in each

	Commission Proposal	Compromise text proposal
	<p>Member State and to address exceptional circumstances of failure of the EES Central System, national systems or communication infrastructure, or excessive waiting times at their borders, Member States should have the possibility to suspend the operations of the EES at certain border crossing points, fully or partially. In case of partial suspension, the registration of biometric data in the EES should be suspended. In case of full suspension, no data should be registered in the EES. To mitigate additional risks related to the deployment of the EES with biometric functionalities, Member States should have the possibility, in exceptional circumstances leading to traffic of such intensity that the waiting times at borders become excessive, to suspend the registration of biometric data in the EES after the end of the progressive start of operations. Such a suspension should be possible for a limited period of 60 days after the end of the progressive start of operations of the EES, and should be extended by 60 days if less than 80% of the individual files registered in the EES during the progressive start of operations of the EES contain biometric data.</p>	<p>Member State and to address exceptional circumstances of failure of the EES Central System, national systems or communication infrastructure, or excessive waiting times at their borders, <u>all</u> Member States, <u>regardless of whether they start using the EES fully or progressively</u>, should have the possibility to suspend the operations of the EES at certain border crossing points, fully or partially. In case of partial suspension, the registration of biometric data in the EES should be suspended. In case of full suspension, no data should be registered in the EES. <u>The use of the suspension mechanism does not affect obligations as regards the timeline for the progressive start of operations, but it may temporarily affect the envisaged percentages.</u> To mitigate additional risks related to the deployment of the EES with biometric functionalities, <u>all</u> Member States should have the possibility, in exceptional circumstances leading to traffic of such intensity that the waiting times at borders become excessive, to suspend the registration of biometric data in the EES after the end of the progressive start of operations. Such a suspension should be possible for a limited period of 60<u>90</u> days after the end of the progressive start of operations of the EES, and should be extended by 60 days if less than 80% of the individual files registered in the EES during the progressive start of operations of the EES contain biometric data.</p>
Recital 25		
35	<p>(25) eu-LISA should issue reports on the statistics on the use of the system, which should serve to evaluate the system's performance, assess Member States compliance with the roll-out plans, identify areas for improvement, monitor compliance with the progressive start of operations of the EES, and support decision-making relating to the system's further development and optimisation.</p>	<p>(25) eu-LISA should issue reports on the statistics on the use of the system, which should serve to evaluate the system's performance, assess Member States compliance with the roll-out plans, identify areas for improvement, monitor compliance with the progressive start of operations of the EES, and support decision-making relating to the system's further development and optimisation. <u>In addition, eu-LISA should continue its usual reporting to its Management Board. The Management Board of eu-LISA should monitor the progressive start of EES operations.</u></p>
Recital 26		
36	<p>(26) The preparatory work related to the roll-out plans should be triggered by the date of the entry into force of this Regulation. The progressive start of operations should apply from the date decided by the Commission in accordance with Article 66(1) of EES Regulation. As this Regulation provides for temporary derogations, it should cease to apply</p>	<p>(26) The preparatory work related to the roll-out plans should be triggered by the date of the entry into force of this Regulation. The progressive start of operations should apply from the date decided by the Commission in accordance with Article 66(1) of EES Regulation. As this Regulation provides for temporary derogations, it should cease to apply</p>

	Commission Proposal	Compromise text proposal
	180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226. However, the derogatory rules on the application of transitional period and transitional measures, access to EES data, verification by the carriers of stamps affixed in the travel documents and the suspension of the EES should apply for a limited period after the end of the progressive start of operations.	180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226. However, the derogatory rules on the application of transitional period and transitional measures, access to EES data, verification by the carriers of stamps affixed in the travel documents and the suspension of the EES should apply for a limited period after the end of the progressive start of operations.
Recital 27		
37	(27) The objective of this Regulation, authorising derogations from Regulation (EU) 2017/2226 and Regulation (EU) 2016/299 to provide for a progressive start of operations of the EES, cannot be sufficiently achieved by Member States but can rather, by reason of the scale and impact of the action, be better achieved at Union level. Therefore, 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 to achieve those objectives.	(27) The objective of this Regulation, authorising derogations from Regulation (EU) 2017/2226 and Regulation (EU) 2016/299 <u>2016/399</u> to provide for a progressive start of operations of the EES, cannot be sufficiently achieved by Member States but can rather, by reason of the scale and impact of the action, be better achieved at Union level. Therefore, 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 to achieve those objectives.
Recital 28		
38	(28) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU 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 should, 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.	(28) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU 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 <u>aequis</u> , Denmark should, 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.
Recital 29		
39	(29) This Regulation does not constitute a development of the provisions of the Schengen acquis in which Ireland takes part in accordance with Council Decision 2002/192/EC. Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.	(29) This Regulation does not constitute a development of the provisions of the Schengen acquis <u>aequis</u> in which Ireland takes part in accordance with Council Decision 2002/192/EC. Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
Recital 30		

	Commission Proposal	Compromise text proposal
40	(30) 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 those states 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/EC.	(30) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen <u>acquis</u> aequis 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 those states <u>the latter's</u> 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/EC.
Recital 31		
41	(31) 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/EC.	(31) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <u>acquis</u> aequis 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/EC.
Recital 32		
42	(32) 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/EU.	(32) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen <u>acquis</u> aequis 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 <u>acquis</u> aequis 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/EU.
Recital 33		
43	(33) As regards Cyprus, the provisions of this Regulation relating to the VIS constitute provisions building upon, or otherwise relating to, the Schengen acquis within the meaning of Article 3(2) of the 2003 Act of Accession. The operation of the EES requires the granting of passive access to the VIS. As the EES is only to be operated by those Member	(33) As regards Cyprus, the provisions of this Regulation relating to the VIS constitute provisions building upon, or otherwise relating to, the Schengen <u>acquis</u> aequis within the meaning of Article 3(2) of the 2003 Act of Accession. The operation of the EES requires the granting of passive access to the VIS. As the EES is only to be operated by those

Commission Proposal		Compromise text proposal	
	States that fulfil the conditions related to VIS at the start of the operation of the EES, Cyprus will not operate the EES from the start of operations. Cyprus is to be connected to the EES as soon as the conditions of the procedure referred to in Regulation (EU) 2017/2226 are met.		Member States that fulfil the conditions related to VIS at the start of the operation of the EES, Cyprus will not operate the EES from the start of operations. Cyprus is to be connected to the EES as soon as the conditions of the procedure referred to in Regulation (EU) 2017/2226 are met.
Recital 34			
44	(34) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered its opinion on [xx].		(34) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered its opinion on [xx].
Recital 35			
45	(35) This Regulation establishes strict rules concerning access to the EES, as well as the necessary safeguards for such access. It also sets out the individuals' rights of access, rectification, completion, erasure and redress, in particular the right to a judicial remedy and the supervision of processing operations by public independent authorities. This Regulation therefore respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to human dignity, the prohibition of slavery and forced labour, the right to liberty and security, respect for private and family life, the protection of personal data, the right to non-discrimination, the rights of the child, the rights of the elderly, the integration of persons with disabilities and the right to an effective remedy and to a fair trial.		(35) This Regulation establishes strict rules concerning access to the EES, as well as the necessary safeguards for such access. It also sets out the individuals' rights of access, rectification, completion, erasure and redress, in particular the right to a judicial remedy and the supervision of processing operations by public independent authorities. This Regulation therefore respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to human dignity, the prohibition of slavery and forced labour, the right to liberty and security, respect for private and family life, the protection of personal data, the right to non-discrimination, the rights of the child, the rights of the elderly, the integration of persons with disabilities and the right to an effective remedy and to a fair trial.
Recital 36			
46	(36) This Regulation is without prejudice to the obligations deriving from the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967.		(36) This Regulation is without prejudice to the obligations deriving from the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967.
Formula			
47	HAVE ADOPTED THIS REGULATION:		HAVE ADOPTED THIS REGULATION:
Article 1			
48	Subject matter Article 1		Subject matter Article 1
Article 1, first paragraph			

	Commission Proposal	Compromise text proposal
49	This Regulation lays down rules on a progressive start of operations of the Entry/Exit System (EES) at the borders of the Member States at which the EES is operated in accordance with Article 4 of Regulation (EU) 2017/2226 and temporary derogations from Regulation (EU) 2017/2226 and Regulation (EU) 2016/399.	This Regulation lays down rules on a progressive start of operations of the Entry/Exit System (EES) at the borders of the Member States at which the EES is operated in accordance with Article 4 of Regulation (EU) 2017/2226 and temporary derogations from Regulation (EU) 2017/2226 and Regulation (EU) 2016/399.
Article 2		
50	Article 2 Definitions	Article 2 Definitions
Article 2, first paragraph		
51	For the purposes of this Regulation, the definitions in Article 3(1) of Regulation (EU) 2017/2226 apply. In addition, the following definitions apply:	For the purposes of this Regulation, the definitions in Article 3(1) of Regulation (EU) 2017/2226 apply. In addition, the following definitions apply:
Article 2, first paragraph, point (a)		
52	(a) ‘progressive start of operations of the EES’ means the period of 180 calendar days starting from the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(a) ‘progressive start of operations of the EES’ means the period of 180 calendar days starting from the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;
Article 2, first paragraph, point (b)		
53	(b) ‘national authorities’ means the authorities referred to in Article 9 of Regulation (EU) 2017/2226;	(b) ‘national authorities’ means the authorities referred to in Article 9 of Regulation (EU) 2017/2226;
Article 2, first paragraph, point (c)		
54	(c) ‘estimated number of border crossings’ means a Member State’s estimate of the number of border crossings of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 in each Member State based on the yearly average of the total number of border crossings of third-country nationals travelling for a short stay in that Member State calculated for the preceding 3 years from the date of application referred to in Article 8(1), second subparagraph, of this Regulation.	(c) ‘estimated number of border crossings’ means a Member State’s estimate of the number of border crossings of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 in each Member State based on the yearly average of the total number of border crossings of third-country nationals travelling for a short stay in that Member State calculated for the preceding 3 years from the date of application referred to in Article 8(1), second subparagraph, of this Regulation. <u>Estimations shall be determined based on the border crossings at the borders referred to in Article 4 of Regulation (EU) 2017/2226.</u>
Article 2, first paragraph, point (d)		

	Commission Proposal	Compromise text proposal
54a		
Article 3		
55	Article 3 Roll-out plans	Article 3 Roll-out plans <u>and reporting</u>
Article 3(1)		
56	1.By [the 30 th calendar day after the entry into force of this Regulation], the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) shall provide the Commission, Member States, as well as Europol, with a high-level roll-out plan on the progressive start of operations of the EES, taking into account the phases set out in Article 4. That roll-out plan shall include guidance on the use of the EES to Member States and Europol, including capacity limits of the EES Central System.	1.By [the 30 th calendar day after the entry into force of this Regulation], the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) shall provide the Commission, Member States, as well as Europol, with a high-level roll-out plan on the progressive start of operations of the EES, taking into account the phases set out in Article 4. That roll-out plan shall include guidance on the use of the EES to Member States and Europol; including capacity limits. <u>This plan shall confirm performance and availability targets of the EES central system as well as the strategy regarding eventual functional minor, major and blocking defects.</u>
Article 3(2)		
57	2.By [the 60 th calendar day after the entry into force of this Regulation], in consultation with the Commission and eu-LISA, Member States shall develop a national roll-out plan on the progressive start of operations of the EES, taking into account the high-level roll-out plan referred to in paragraph 1 of this Article and the phases set out in Article 4.	2.By [the 60 th calendar day after the entry into force of this Regulation], in consultation with the Commission and eu-LISA, Member States shall develop a national roll-out plan on the progressive start of operations of the EES, taking into account the high-level roll-out plan referred to in paragraph 1 of this Article and the phases set out in Article 4.
Article 3(3)		
58	3.For each of the phases set out in Article 4, the national roll-out plans shall include the information on the thresholds and requirements set out in that Article.	3.For each of the phases set out in Article 4, the national roll-out plans shall include the information on the thresholds and requirements set out in that Article.:
Article 3(3), point (a)		
58a		
Article 3(3), point (b)		
58b		
Article 3(3), point (c)		

	Commission Proposal	Compromise text proposal
58c		
Article 3(4)		
59	4. From the 30 th calendar day after the progressive start of operations of the EES, Member States shall provide monthly reports to the Commission and eu-LISA on the implementation of their national roll-out plans, including corrective measures where necessary to comply with the obligations set out in Article 4.	4. From the 30 th calendar day after the progressive start of operations of the EES, Member States shall provide monthly reports to the Commission and eu-LISA on confirming the implementation of their national roll-out plans, including or identifying corrective measures, where necessary, to comply with the obligations set out in Article 4.
Article 3(4a)		
59a		
Article 3(4b)		
59b		
Article 3(5)		
60	5. At the request of the Commission, eu-LISA shall provide the Commission with the statistics necessary for the monitoring of the national roll-out plans, in accordance with Article 63(6) of Regulation (EU) 2017/2226.	5. At the request of the Commission, eu-LISA shall provide the Commission with the statistics necessary for the monitoring of the <u>eu-LISA high-level roll-out plan and the</u> national roll-out plans, in accordance with Article 63(6) of Regulation (EU) 2017/2226.
Article 3(5a)		
60a		<u>5a. The eu-LISA Management Board shall adopt the eu-LISA high-level roll-out plan referred to in paragraph 1 of this Article. The eu-LISA Management Board shall also monitor the development of the EES Central System in accordance with Article 19 of Regulation (EU) 2018/1726, in particular as regards the progressive start of operations.</u>
Article 3(5b)		
60b		
Article 4		
61	Article 4 Progressive start of operations	Article 4 Progressive start of operations
Article 4(1)		

	Commission Proposal	Compromise text proposal
62	1.By way of derogation from Article 66(6) of Regulation (EU) 2017/2226 during the progressive start of operations of the EES, the Member States shall use the EES as set out in this Article.	1.By way of derogation from Article 66(6) of Regulation (EU) 2017/2226 during the progressive start of operations of the EES, the Member States shall use the EES as set out in this Article.
Article 4(2), first subparagraph		
63	2.From the first day of the progressive start of operations of the EES, each Member State shall start using the EES on entry and exit at one or more border crossing points with, if possible and applicable, a combination of air, land and sea border crossing points, to record and store data of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226. Member States shall register in the EES at least 10% of the estimated number of border crossings in that Member State.	2.From the first day of the progressive start of operations of the EES, each Member State shall start using the EES on entry and exit at one or more border crossing points with, if possible and applicable, a combination of air, land and sea border crossing points, to record and store data of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226. <u>No later than the 30th calendar day after the progressive start of operations of the EES,</u> Member States shall register in the EES at least 10% of the estimated number of border crossings in that Member State.
Article 4(2), second subparagraph		
64	For the first 60 calendar days of the progressive start of operations of the EES, Member States may operate the EES without biometric functionalities, and national authorities may create or update individual files without biometric data.	For the first 60 calendar days of the progressive start of operations of the EES, Member States may operate the EES without biometric functionalities, and national authorities may create or update individual files without biometric data.
Article 4(3)		
65	3.No later than the 90 th calendar day after the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities at least at half of their border crossing points. Member States shall register at least 50% of the estimated number of border crossings in that Member State. The individual files of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 that are registered in the EES shall contain biometric data.	3.No later than the 90 th calendar day after the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities at least at half of their border crossing points. Member States shall register at least 50% of the estimated number of border crossings in that Member State. The individual files of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 that are registered in the EES shall contain biometric data.
Article 4(4)		
66	4.No later than the 150 th calendar day after the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities at all their border crossing points and shall continue registering in the EES at least 50% of the estimated number of border crossings in that Member State.	4.No later than the 150 th calendar day after the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities at all their border crossing points and shall continue registering in the EES at least 50% of the estimated number of border crossings in that Member State.
Article 4(5)		

	Commission Proposal	Compromise text proposal
67	5.No later than the 170 th calendar days after the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities at all their border crossing points and shall register in the EES all third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226.	5.No later than the 170 th calendar days after the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities at all their border crossing points and shall register in the EES all third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226.
Article 4(5a)		
67a		
Article 4(5b)		
67b		
Article 4(5c)		
67c		
Article 4(5d)		
67d		
Article 4(6)		
68	6.Refusals of entry, decided at a border crossing point at which the EES is operated, shall be recorded in the EES, as set out in Article 18 of Regulation (EU) 2017/2226. Where the EES is operated with biometric functionalities, refusals of entry shall be recorded with biometric data. Where the EES is operated without biometric functionalities, refusals of entry shall be recorded without biometric data.	6.Refusals of entry, decided at a border crossing point at which the EES is operated, shall be recorded in the EES, as set out in Article 18 of Regulation (EU) 2017/2226. Where the EES is operated with biometric functionalities, refusals of entry shall be recorded with biometric data. Where the EES is operated without biometric functionalities, refusals of entry shall be recorded without biometric data, <u>except where the biometric data are available in the VIS.</u>
Article 4(7)		
69	7.From the first day of the progressive start of operations of the EES, Europol shall use the EES as provided for in Regulation (EU) 2017/2226.	7.From the first day of the progressive start of operations of the EES, Europol shall use the EES as provided for in Regulation (EU) 2017/2226.
Article 4a		
69a		
Article 4a, first paragraph		
69b		
Article 4a, second paragraph		

	Commission Proposal	Compromise text proposal
69c		
Article 5		
70	Article 5 Other derogations from Regulation (EU) 2017/2226 and Regulation (EU) 2016/399	Article 5 Other derogations from Regulation (EU) 2017/2226 and Regulation (EU) 2016/399
Article 5(1)		
71	1. In addition to the rules of Article 4, the rules set out in this Article shall apply during the progressive start of operations of the EES.	1. In addition to the rules of Article 4, the rules set out in this Article shall apply during the progressive start of operations of the EES.
Article 5(2), first subparagraph		
72	2. Border authorities shall systematically stamp the travel documents of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 on entry and exit.	2. Border authorities shall systematically stamp the travel documents of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 on entry and exit.
Article 5(2), second subparagraph		
73	The stamping obligations referred to in Article 42a(1), second subparagraph, and Article 42a(2), (5) and (6) of Regulation (EU) 2016/399 shall apply mutatis mutandis in the Member States operating the EES.	The stamping obligations referred to in Article 42a(1), second subparagraph, and Article 42a(2), (5) and (6) of Regulation (EU) 2016/399 shall apply mutatis mutandis in the Member States operating the EES.
Article 5(3)		
74	3. For entering, amending, erasing and consulting the data in the EES, national authorities that are competent for the purposes laid down in Articles 23 to 35 of Regulation (EU) 2017/2226 shall consider stamps as prevailing over the EES data, including in cases of discrepancy or in cases referred to in Article 16(4) of that Regulation. The data recorded in the EES shall prevail in case a stamp is missing.	3. For entering, amending, erasing and consulting the data in the EES, national authorities that are competent for the purposes laid down in Articles 23 to 35 of Regulation (EU) 2017/2226 shall consider stamps as prevailing over the EES data, including in cases of discrepancy or in cases referred to in Article 16(4) of that Regulation. The data recorded in the EES shall prevail in case a stamp is missing.
Article 5(3a)		
74a		<u>(a) consider stamps affixed as prevailing where there is no relevant EES data,</u>
Article 5(3c), first subparagraph		
74b		<u>(b) consider EES data as prevailing:</u>
Article 5(3c), second subparagraph		

Commission Proposal		Compromise text proposal
74c		<u>(i) where there is discrepancy between the individual file containing biometric data and the stamp affixed, or</u>
Article 5(3c), third subparagraph		
74d		<u>(ii) where a stamp is missing;</u>
Article 5(3d), first subparagraph		
74e		<u>(3) decide on a case-by-case basis whether the stamp or the EES data is prevailing;</u>
Article 5(3d), second subparagraph		
74f		<u>(i) where there is a discrepancy between the individual file without biometric data and the stamp affixed according to paragraph 2; or</u>
Article 5(3d), third subparagraph		
74g		<u>(ii) in cases referred to in Article 16(4) of Regulation (EU) 2017/2226.</u>
Article 5(4), first subparagraph		
75	4. In the absence of a stamp affixed in the travel document and of an individual file created in the EES for a third-country national present in the territory of the Member States, national authorities may presume that the third-country national does not fulfil or no longer fulfils the conditions relating to entry or stay in the Member States.	4. In the absence of a stamp affixed in the travel document and of an individual file created in the EES for a third-country national present in the territory of the Member States, national authorities may presume that the third-country national does not fulfil or no longer fulfils the conditions relating to entry or stay in the Member States.
Article 5(4), second subparagraph		
76	This presumption shall not apply to third-country nationals who can provide, by any means, credible evidence that they enjoy the right of free movement under Union law, have a right of residence in a host Member State under the EU–UK Withdrawal Agreement, or that they hold a residence permit or a long-stay visa.	This presumption shall not apply to third-country nationals who can provide, by any means, credible evidence that they enjoy the right of free movement under Union law, have a right of residence in a host Member State under the EU–UK Withdrawal Agreement, <u>_</u> or that they hold a residence permit or a long-stay visa.
Article 5(4), third subparagraph		
77	This presumption may be rebutted where the third-country nationals provide, by any means, credible evidence that they have respected the conditions relating to the duration of a short stay.	This <u>The</u> presumption <u>referred to in paragraph 1</u> may be rebutted where the third-country nationals provide, by any means, credible evidence, <u>such as transport tickets or proof of presence outside the territory of the Member States or of the date of expiry of a previous residence permit or</u>

	Commission Proposal	Compromise text proposal
		<u>long-stay visa</u> , that they have respected the conditions relating to the duration of a short stay.
Article 5(4), fourth subparagraph		
78	Where the presumption is rebutted, national authorities shall perform one or more of the following tasks at the border crossing points at which the EES is operated, to the extent allowed by this Regulation:	Where the presumption is rebutted, national authorities <u>using the EES</u> shall perform one or more of the following tasks at the border crossing points at which the EES is operated , to the extent allowed by this Regulation:
Article 5(4), fourth subparagraph, point (a)		
79	(a) create an individual file for that third-country national in the EES, if necessary;	(a) create an individual file for that third-country national in the EES, if necessary;
Article 5(4), fourth subparagraph, point (b)		
80	(b) update the latest entry/exit record by entering the missing data;	(b) update the latest entry/exit record by entering the missing data;
Article 5(4), fourth subparagraph, point (c)		
81	(c) erase an existing file where Article 35 of Regulation (EU) 2017/2226 provides for such erasure.	(c) erase an existing file where Article 35 of Regulation (EU) 2017/2226 provides for such erasure.
Article 5(5)		
82	5.Border authorities shall make use of the interoperability between the EES and the VIS referred to in Article 8(2) of Regulation (EU) 2017/2226 only at the border crossing points at which the EES is operated. Border authorities shall continue accessing the VIS directly:	5.Border authorities shall make use of the interoperability between the EES and the VIS referred to in Article 8(2) of Regulation (EU) 2017/2226 only at the border crossing points at which the EES is operated. Border authorities shall continue accessing the VIS directly:
Article 5(5), point (a)		
83	(a) at the border crossing points at which the EES is not operated;	(a) at the border crossing points at which the EES is not operated;
Article 5(5), point (b)		
84	(b) where the EES is suspended in accordance with Article 7 of this Regulation.	(b) where the EES is suspended in accordance with Article 7 of this Regulation.
Article 5(6)		
85	6.National authorities and Europol shall disregard the following:	6.National authorities and Europol shall disregard the following:
Article 5(6), point (a)		

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86	(a) the results of the automated calculator that provides information on the maximum duration of the authorised stay referred to in Article 11 of Regulation (EU) 2017/2226;	(a) the results of the automated calculator that provides information on the maximum duration of the authorised stay referred to in Article 11 of Regulation (EU) 2017/2226;
Article 5(6), point (b)		
87	(b) the automatically generated list of overstayers and its consequences in particular as referred to in Article 6(1), points (c) and (h), Article 12(3), Article 16(4), Article 34(3), Article 50(1), points (i) and (k), Article 63(1), point (e) of that Regulation.	(b) the automatically generated list of overstayers and its consequences in particular as referred to in Article 6(1), points (c) and (h), Article 12(3), Article 16(4), Article 34(3), Article 50(1), points (i) and (k), Article 63(1), point (e) of that Regulation.
Article 5(7)		
88	7.Processing operations by Member States that comply with this Regulation shall not be considered as unlawful or not compliant with Regulation (EU) 2017/2226 for the purposes of Articles 45 and 48 of that Regulation.	7.Processing operations by Member States that comply with <u>based on</u> this Regulation shall not be considered as unlawful or not compliant with Regulation (EU) 2017/2226 for the purposes of Articles 45 and 48 of that Regulation.
Article 5(8)		
89	8.Verification of the identity and previous registration of third-country nationals pursuant to Article 23 of Regulation (EU) 2017/2226 shall be carried out on the third-country nationals referred to in Article 2(1) and (2) of that Regulation at the border crossing points at which the EES is operated with biometric functionalities, including through self-service systems, where available.	8.Verification of the identity and previous registration of third-country nationals pursuant to Article 23 of Regulation (EU) 2017/2226 shall be carried out on the third-country nationals referred to in Article 2(1) and (2) of that Regulation at the border crossing points at which the EES is operated with biometric functionalities, including through self-service systems, where available.
Article 5(9)		
90	9.In addition to the specific information referred to in Article 50(5) of Regulation (EU) 2017/2226 that is to be added by the Member States in the template to provide information to third-country nationals about the processing of their personal data in the EES, Member States shall accompany the template to be handed over to third-country nationals at the time the individual file of the person concerned is being created with the following information:	9.In addition to the specific information referred to in Article 50(5) of Regulation (EU) 2017/2226 that is to be added by the Member States in the template to provide information to third-country nationals about the processing of their personal data in the EES, Member States shall accompany <u>complement</u> the template to be handed over <u>provided</u> to third-country nationals at the time the individual file of the person concerned is being created— <u>with</u> the following information:
Article 5(9), amending provision, first paragraph		
91	‘ The Entry/Exit System is being progressively rolled out. During this roll-out period [from ...], your personal data, including your biometric data,	‘ The Entry/Exit System is being progressively rolled out. During this roll-out period [from ...], your personal data, including your biometric data,

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	might not be collected for the purposes of the Entry/Exit System at all Member States' external borders. If we need to mandatorily collect this information and you choose not to provide it, you will be refused entry. During this period of the progressive roll-out your data will not be automatically added to a list of overstayers. In addition, you will not be able to check how much longer you are authorised to stay using the website or equipment available at border crossing points.	might not be collected for the purposes of the Entry/Exit System at all Member States' external borders. If we need to mandatorily collect this information and you choose not to provide it, you will be refused entry. During this period of the progressive roll-out your data will not be automatically added to a list of overstayers. In addition, you will not be able to check how much longer you are authorised to stay using the website or equipment available at border crossing points.
Article 5(9), amending provision, second paragraph		
92	Please note that when the progressive roll-out of the EES is completed, your personal data will be processed according to the information provided in the document accompanying this form.	Please note that when the progressive roll-out of the EES is completed, your personal data will be processed according to the information provided in the document accompanying this form.
Article 5(10)		
93	10. The information on the EES website referred to in Article 50(3) of Regulation (EU) 2017/2226 shall be adapted by the Commission to reflect the progressive start of operations.	10. The information on the EES website referred to in Article 50(3) of Regulation (EU) 2017/2226 shall be adapted by the Commission to reflect the progressive start of operations.
Article 5(11)		
94	11. The information campaign referred to in Article 51 of Regulation (EU) 2017/2226 accompanying the start of operations of the EES, shall reflect the specific conditions at the border crossing points, ensuring that the relevant information is communicated to those affected, and taking into account the phases set out in Article 4 of this Regulation. The Commission shall support Member States in preparing the adapted materials of the information campaign.	11. The information campaign referred to in Article 51 of Regulation (EU) 2017/2226 accompanying the start of operations of the EES, shall reflect the specific conditions at the border crossing points, ensuring that the relevant information is communicated to those affected, and taking into account the phases set out in Article 4 of this Regulation. The Commission shall <u>adapt materials of the information campaign in a reasonable timeframe, prior to the start of operations. The Commission shall</u> support Member States in preparing the adapted materials of the information campaign.
Article 5(12)		
95	12. The application of Article 12(1) and (2), Article 13(1) and (2), Article 20 and Article 21 of Regulation (EU) 2017/2226 shall be suspended.	12. The application of <u>Article 11(3)</u> , Article 12(1) and (2), Article 13(1) and (2), Article 20 and Article 21 of Regulation (EU) 2017/2226, <u>as well as the application of Article 8(9) of Regulation (EU) 2016/399</u> -shall be suspended.
Article 5(13)		

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96	13. By way of derogation from Article 22 of Regulation (EU) 2017/2226 and Article 12a of Regulation (EU) 2016/399, the transitional period and the transitional measures set out in those Articles shall apply from the first day after the progressive start of operations of the EES has ended.	13. By way of derogation from Article 22 of Regulation (EU) 2017/2226 and Article 12a of Regulation (EU) 2016/399, the transitional period and the transitional measures set out in those Articles shall apply from the first day after the progressive start of operations of the EES has ended.
Article 5(14), first subparagraph		
97	14. At the border crossing points at which the EES is not operated, border checks shall be carried out in accordance with Regulation (EU) 2016/399 as applicable on the day before the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) Regulation (EU) 2017/2226.	14. At the border crossing points at which the EES is not operated, border checks shall be carried out in accordance with Regulation (EU) 2016/399 as applicable on the day before the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) Regulation (EU) 2017/2226.
Article 5(14), second subparagraph		
98	At the border crossing points at which the EES is operated, border checks shall be carried out in accordance with Regulation (EU) 2017/2226 and Regulation (EU) 2016/399.	At the border crossing points at which the EES is operated, border checks shall be carried out in accordance with Regulation (EU) 2017/2226 and Regulation (EU) 2016/399.
Article 5(14), third subparagraph		
99	By way of derogation from the second subparagraph, at the border crossing points where the EES is operated without biometric functionalities, Article 6(1), point (f)(i), and the provisions on the verification of third-country nationals based on biometric data, solely for the purposes of the EES, referred to in Articles 6, point (f) (ii) and Article 8 (3), points (a) and (g) of Regulation (EU) 2016/399 shall not apply.	By way of derogation from the second subparagraph, at the border crossing points where the EES is operated without biometric functionalities, Article 6(1), point (f)(i), and the provisions on the verification of third-country nationals based on biometric data, solely for the purposes of the EES, referred to in Articles 6(1) , point (f) (ii) and Article 8 (3), points (a) and (g) of Regulation (EU) 2016/399 shall not apply.
Article 5(14), fourth subparagraph		
100	For the purposes of this Regulation, Article 9(3) and Article 12 of Regulation (EU) 2016/399 shall be suspended.	For the purposes of this Regulation, Article 9(3) and Article 12 of Regulation (EU) 2016/399 shall be suspended.
Article 5, a paragraph		
100a		<u><i>14a. By way of derogation to Article 37 of Regulation (EU) 2017/2226, the Programme Management Board shall continue its activities until the end of the-180 day period of progressive start of operations referred to in Article 4 of this Regulation, and in particular shall monitor such progressive start.</i></u>
Article 6		

	Commission Proposal	Compromise text proposal
101	Article 6 Access to the EES data	Article 6 Access to the EES data
Article 6(1)		
102	1. When accessing the entry and exit records registered in the EES during the progressive start of operations of the EES in the performance of their tasks:	1. When accessing the entry and exit records registered in the EES during the progressive start of operations of the EES in the performance of their tasks:
Article 6(1), point (a)		
103	(a) national authorities and Europol shall take into account that, due to the variable operations of the EES in each Member State during the progressive start of operations of the EES, the data could be incomplete;	(a) national authorities and Europol shall take into account that, due to the variable operations of the EES in each Member State during the progressive start of operations of the EES, the data could be incomplete;
Article 6(1), point (b)		
104	(b) national authorities shall take into account that the data could be incomplete when communicating data in accordance with Articles 41 and 42 of Regulation (EU) 2017/2226;	(b) national authorities shall take into account that the data could be incomplete when communicating data in accordance with Articles 41 and 42 of Regulation (EU) 2017/2226;
Article 6(1), point (c)		
105	(c) the ETIAS Central Unit shall take into account that the entry and exit records registered in the EES during the progressive start of operations of the EES could include incomplete sets of data for the purpose of verification in accordance with Article 25a(2) of Regulation (EU) 2017/2226.	(c) the ETIAS Central Unit shall take into account that the entry and exit records registered in the EES during the progressive start of operations of the EES could include incomplete sets of data for the purpose of verification in accordance with Article 25a(2) of Regulation (EU) 2017/2226.
Article 6(2)		
106	2. Competent authorities, the Commission and relevant Union agencies shall take into account that the data registered in the EES during the progressive start of operations of the EES may be incomplete when accessing data for reporting and statistics as referred in Article 63 of Regulation EU 2017/2226.	2. Competent authorities, the Commission and relevant Union agencies shall take into account that the data registered in the EES during the progressive start of operations of the EES may be incomplete when accessing data for reporting and statistics as referred in Article 63 of Regulation EU 2017/2226.
Article 6(3), first subparagraph		
107	3. By way of derogation from Article 13(3) of Regulation (EU) 2017/2226, carriers may start using the web service referred to in that Article from the 90th calendar day of the progressive start of operations of the EES. Carriers shall verify the stamps affixed in the travel documents with a	3. By way of derogation from Article 13(3) of Regulation (EU) 2017/2226, carriers may start using the web service referred to in that Article from the 90th calendar day of the progressive start of operations of the EES. Carriers shall verify the stamps affixed in the travel documents with a

Commission Proposal		Compromise text proposal	
	view to fulfilling their obligations under Article 26(1) of the Convention implementing the Schengen Agreement and under Council Directive 2001/51/EC for the duration of the progressive start of operations of the EES.		view to fulfilling their obligations under Article 26(1) of the Convention implementing the Schengen Agreement and under Council Directive 2001/51/EC for the duration of the progressive start of operations of the EES. <u>By way of derogation from Article 13(3) of Regulation (EU) 2017/2226, carriers may start using the web service referred to in that Article from the 90th calendar day of the progressive start of operations of the EES.</u>
Article 6(3), second subparagraph			
108	For a period of 180 calendar days after the end of the progressive start of operations of the EES, carriers shall, in addition to using the web service as referred to in Article 13(3) of Regulation (EU) 2017/2226 continue verifying the stamps affixed in travel documents with a view to fulfilling their obligations under Article 26(1) of the Convention implementing the Schengen Agreement and Council Directive 2001/51/EC.		For a period of 180 calendar days after the end of the progressive start of operations of the EES, carriers shall, in addition to using the web service as referred to in Article 13(3) of Regulation (EU) 2017/2226 continue verifying the stamps affixed in travel documents with a view to fulfilling their obligations under Article 26(1) of the Convention implementing the Schengen Agreement and Council Directive 2001/51/EC.
Article 6(4)			
109	4. When fulfilling the obligations referred in Articles 35 and 52 of Regulation (EU) 2017/2226 in relation to the completion of personal data recorded in the EES, Member States shall complete the relevant data only to the extent possible taking into account the limited availability of the sets of data collected during the progressive start of operations of the EES. Where applicable, the administrative decision referred to in Article 52(4) of Regulation (EU) 2017/2226 shall refer to the conditions set out in Article 4 of this Regulation that allow for the registration of incomplete files.		4. When fulfilling the obligations referred in Articles 35 and 52 of Regulation (EU) 2017/2226 in relation to the completion of personal data recorded in the EES, Member States shall complete the relevant data only to the extent possible taking into account the limited availability of the sets of data collected during the progressive start of operations of the EES. Where applicable, the administrative decision referred to in Article 52(4) of Regulation (EU) 2017/2226 shall refer to the conditions set out in Article 4 of this Regulation that allow for the registration of incomplete files.
Article 6(5)			
110	5. By way of derogation from Article 63(1), second subparagraph, of Regulation (EU) 2017/2226, the duly authorised staff of the European Border and Coast Guard Agency shall not access the data registered in the EES during the progressive start of operations of the EES for the purpose of carrying out risk analyses and vulnerability assessments.		5. By way of derogation from Article 63(1), second subparagraph, of Regulation (EU) 2017/2226, the duly authorised staff of the European Border and Coast Guard Agency shall not access the data registered in the EES during the progressive start of operations of the EES for the purpose of carrying out risk analyses and vulnerability assessments.
Article 6(5a)			
110a			
Article 6(5b)			

	Commission Proposal	Compromise text proposal
110b		
Article 7		
111	Article 7 Suspension of the EES	Article 7 Suspension of the EES
Article 7(1), first subparagraph		
112	1. During the progressive start of operations of the EES, Member States may fully or partially suspend operating the EES at certain border crossing points in exceptional circumstances of failure of the EES Central System, national systems or communication infrastructure, or events leading to traffic of such intensity that the waiting time at a border crossing point becomes excessive.	1. During the progressive start of operations of the EES, Member States may fully or partially suspend operating the EES at certain border crossing points in exceptional circumstances of failure of the EES Central System, national systems or communication infrastructure, or events leading to traffic of such intensity that the waiting time at a border crossing point becomes excessive.
Article 7(1), second subparagraph		
113	In case of partial suspension, the data referred to in Articles 16 to 20 of Regulation (EU) 2017/2226 shall be collected, with the exception of biometric data.	In case of partial suspension, the data referred to in Articles 16 to 20 of Regulation (EU) 2017/2226 shall be collected, with the exception of biometric data.
Article 7(1), third subparagraph		
114	In case of full suspension, Member States shall completely suspend the EES operations and shall not collect the data referred to in Articles 16 to 20 of that Regulation.	In case of full suspension, Member States shall completely suspend the EES operations and shall not collect the data referred to in Articles 16 to 20 of that Regulation.
Article 7(1), fourth subparagraph		
115	In both cases, Member States shall promptly and no later than 6 hours after the start of the suspension notify to the Commission and eu-LISA the reason for the partial or full suspension and its expected duration and ensure that the operators of infrastructure hosting border crossing points and carriers are duly informed of such suspension. Once the exceptional circumstances that led to the suspension cease, Member States shall promptly notify the Commission and eu-LISA.	In both cases, Member States shall promptly and no later than 6 ¹² hours after the start of the suspension notify to the Commission and eu-LISA the reason for the partial or full suspension and its expected duration and ensure that, <u>if relevant according to the local circumstances of the border crossing points, shall inform</u> the operators of infrastructure hosting border crossing points and carriers are duly informed of such suspension. Once the exceptional circumstances that led to the suspension cease, Member States shall promptly notify the Commission and eu-LISA.
Article 7(1a)		
115a		<u>1a. In case of failure of EES Central System, eu-LISA shall promptly notify the Commission and Member States of the reason and its</u>

	Commission Proposal	Compromise text proposal
		<u><i>expected duration. Eu-LISA shall also promptly notify them when the failure is remedied. All Member States shall promptly confirm restart of operations to eu-LISA and the Commission.</i></u>
Article 7(2)		
116	2. For a period of 60 calendar days after the end of the progressive start of operations of the EES, Member States may partially suspend operating the EES as referred to in paragraph 1, second subparagraph, at a certain border crossing point for a limited time of maximum 6 hours and only in exceptional circumstances leading to traffic of such intensity that the waiting time at a border crossing point becomes excessive. Member States shall be relieved of their obligation set out in Article 21(1) of Regulation (EU) 2017/2226 as regards biometric data. In those cases, Member States shall promptly and no later than 6 hours after the start of suspension notify the reason for the suspension and its expected duration to the Commission and eu-LISA.	2. For a period of 60 ⁹⁰ calendar days after the end of the progressive start of operations of the EES, Member States may partially suspend operating the EES as referred to in paragraph 1, second subparagraph, at a certain border crossing point for a limited time of maximum 6 ¹² hours and only in exceptional circumstances leading to traffic of such intensity that the waiting time at a border crossing point becomes excessive. Member States shall be relieved of their obligation set out in Article 21(1) of Regulation (EU) 2017/2226 as regards biometric data. In those cases, Member States shall promptly and no later than 6 ¹² hours after the start of suspension notify the reason for the suspension and its expected duration to the Commission and eu-LISA.
Article 7(3)		
117	3. If less than 80% of the individual files registered in the EES during the progressive start of operations of the EES contain biometric data, the period set out in paragraph 2 of this Article shall be automatically extended by 60 calendar days.	3. If less than 80% of the individual files registered in the EES during the progressive start of operations of the EES contain biometric data, the period set out in paragraph 2 of this Article shall be automatically extended by 60 calendar days.
Article 7(4)		
118	4. At the latest by the 10 th calendar day after the end of the progressive start of operations of the EES, eu-LISA shall provide the Commission with statistics allowing the Commission to verify if this percentage has been reached. No later than by the 30 th calendar day after the end of the progressive start of operations of the EES, the Commission shall inform the Member States of the outcome of its verification.	4. At the latest by the 10 th calendar day after the end of the progressive start of operations of the EES, eu-LISA shall provide the Commission with statistics allowing the Commission to verify if this percentage has been reached. No later than by the 30 th calendar day after the end of the progressive start of operations of the EES, the Commission shall inform the Member States of the outcome of its verification.
Article 8		
119	Article 8 Entry into force and application	Article 8 Entry into force and application
Article 8(1), first subparagraph		

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120	1. This Regulation shall enter into force on the fourth day following that of its publication in the Official Journal of the European Union.	1. This Regulation shall enter into force on the fourth day following that of its publication in the Official Journal of the European Union.
Article 8(1), second subparagraph		
121	It shall apply from the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.	It shall apply from the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.
Article 8(1), third subparagraph		
122	However, Article 3 of this Regulation shall apply from the entry into force of this Regulation.	However, Article 3 of this Regulation shall apply from the entry into force of this Regulation.
Article 8(2), first subparagraph		
123	2. This Regulation shall cease to apply 180 calendar days from the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) Regulation (EU) 2017/2226. However:	2. This Regulation shall cease to apply 180 calendar days from the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) Regulation (EU) 2017/2226. However:
Article 8(2), first subparagraph, point (a)		
124	(a) Article 5(13) shall cease to apply 5 years and 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(a) Article 5(13) shall cease to apply 5 years and 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;
Article 8(2), first subparagraph, point (b)		
125	(b) Article 6(1), (2), (4) and (5) shall cease to apply 5 years and 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(b) Article 6(1), (2), (4) and (5) shall cease to apply 5 years and 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;
Article 8(2), first subparagraph, point (c)		
126	(c) Article 6(3), second subparagraph, shall cease to apply 360 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(c) Article 6(3), second subparagraph, shall cease to apply 360 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;
Article 8(2), first subparagraph, point (d)		
127	(d) Article 7(2) and (3) shall cease to apply 300 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(d) Article 7(2) and (3) shall cease to apply 300 <u>330</u> calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;
Article 8(2), first subparagraph, point (da)		

	Commission Proposal	Compromise text proposal
127a		
Article 8(2), first subparagraph, point (e)		
128	(e) Article 7(4) shall cease to apply 210 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.	(e) Article 7(4) shall cease to apply 210 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.
Article 8(2), second subparagraph		
129	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States <u>in accordance with the Treaties</u> .
Formula		
130	Done at Brussels,	Done at Brussels,
Formula		
131	For the European Parliament	For the European Parliament
Formula		
132	The President	The President
Formula		
133	For the Council	For the Council
Formula		
134	The President	The President